111-412

TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1883.

No. 916.

ALFRED SLIDELL, NICHOLAS H. RIGHTOR ET AL., APPELLANTS,

vs.

THOMAS J. EMLER, MILTON B. MUNCY, FRANKLIN P. MARCY ET AL.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF LOUISIANA.

FILED AUGUST 6, 1883.

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A UNITED STATES OF AMERICA.

Circuit Court of the United States, fifth circuit and eastern district of Louisiana.

ALFRED SLIDELL et al.
vs.
THOMAS J. EMLER et als. } No. 9828.

James L. Bradford, solicitor for complainants, appellants; Rouse & Grant, solicitors for defendants, appellees.

Transcript of appeal, returnable to the Supreme Court of the United States the second Monday of October, A. D. 1883.

1 UNITED STATES OF AMERICA.

Circuit Court of the United States, fifth circuit and eastern district of Louisiana.

ALFRED SLIDELL et al.
vs.
THOMAS J. EMLER et als. } In equity. No. 9828.

Bill of Complaint.—Filed February 15th, 1882.

To the Honorable the Judges of the Circuit Court of the United States for the fifth circuit and eastern district of Louisiana, sitting in equity:

Your complainants, Alfred Slidell, residing in Paris, in the republic of France, a citizen of said republic:

Nicholas H. Rightor, of New Orleans, in the state of Louisiana, a citizen of said state:

Robert Lawes, of the parish of Assumption, in the state of Louisiana, a citizen of said state:

Marguerite Mathilde Slidell, wife of the Baron Emile d'Erlanger, residing in Paris, in the republic of France, and a citizen of said republic, herein joined and authorized by her said husband:

Marie Rosine Slidell, wife of Etienne Pierre Jacques Henri de Serres, count de Saint Roman, residing in Paris, in the republic of France, and a citizen of said republic, herein joined and authorized by her said husband:

Marie Marguerite Caroline Slidell, wife of Jacob Antoine Henry Leodegar Charles Louis Phyffer de Heydegg, residing in Lucerne, in the republic of Switzerland, and a citizen of said republic, herein joined and authorized by her said husband:

Henry Clement Millaudon, of the parish of Point Coupee, in the state of Louisiana, a citizen of said state:

Benjamin L. Millaudon, of the parish of St. Bernard, in the state of Louisiana, a citizen of said state:

Jeanne Henrietta Millaudon, widow of Charles C. Gardanne, de-

ceased, residing in New Orleans, in the state of Louisiana, and a citizen of said state:

Laurent Andre Burthe, residing in New Orleans, in the state of Louisiana, and a citizen of said state:

Josephine Pages, widow of Emanuel Burthe, residing in Liberty, in the state of Virginia, a citizen of said state, tutrix of and herein suing in behalf of the minors Estelle and Laurent Andre, issue of her marriage with the said Emanuel Burthe, deceased:

Thomas Butler, of the parish of West Feliciana, in the state of Louisiana, and a citizen of said state, tutor for and herein suing in behalf of the minors Louise, Robert, Edward and Marguerite, issue of the marriage of Marie Marguerite Burthe, deceased, with Robert O. Butler, deceased:

Genevieve Millandon, wife of and herein joined and authorized by her husband, George Edmond Brown, residing with him at Breaux Bridge, in the parish of St. Martin, in the state of Louisiana, and a citizen of said state:

Louise Burthe, widow of Dominique F. Edmond Burthe, deceased, in her own right, and as tutrix of and herein suing in behalf of the minors Madaline, Elodie, Gabrielle, Edmond and Cecile, issue of her marriage with the said Dominique F. E. Burthe, deceased, residing in New Orleans, in the state of Louisiana, and a citizen of said state:

Nicholas B. Trist, residing in New Orleans, in the state of Louisiana, and a citizen of said state:

Aglaé Bringier, wife of and herein joined and authorized by her husband, Benjamin Tureaud, residing with him in the parish of Ascension, in the state of Louisiana, and a citizen of said state:

Louiza Bringier, wife of and herein joined and authorized by her husband, Martin Gordon, jr., residing with him in New Orleans, Louisiana, and a citizen of said state:

Marius S. Bringier, of New Orleans, in the state of Louisiana, a citizen of said state:

Octavie Bringier, wife of and herein joined and authorized by her husband, Allen Thomas, residing with her said husband in Baton Rouge, in the parish of East Baton Rouge, in the state of Louisiana, and a citizen of said state:

Martin Duradon Bringier, residing in New Orleans, in the state of Louisiana, and a citizen of said state, herein suing in his own right and as tutor of the minor Myrthé Taylor:

Louise Taylor, residing in New Orleans, in the state of Louisiana, and a citizen of said state:

Bettie Taylor, wife of and herein joined and authorized by her husband, Walter Stauffer, residing with her said husband in New Orleans, in the state of Louisiana, and a citizen of said state:

Nicholas P. Trist, residing in the parish of St. James, in the state of Louisiana, and a citizen of said state:

Wilhelmine Trist, wife of and herein joined and authorized by her

husband, Robert C. Wood, residing with him in New Orleans, in the state of Louisiana, and a citizen of said state: and

Oliver Beirne, residing in Monroe county, in the state of West Virginia, and a citizen of said state, herein suing as sole testamentary executor of the estate of John Burnside, deceased, and as his universal legatee, and Duncan F. Kenner, residing in New Orleans, in the state of Louisiana, and a citizen of said state:

Bring this their bill of complaint against—

1st. Thomas J. Emler, residing in New Orleans, in the state of Louisiana, and a citizen of said state:

2d. Milton B. Muncy, residing in New Orleans, in the state of Louisiana, and a citizen of said state:

3d. Franklin P. Marcy, residing in New Orleans, in the state of Louisiana, and a citizen of said state:

4th. Charles Mack, residing in New Orleans, in the state of Louisiana, and a citizen of said state:

5th. Stephen Ernest, residing in Livingston parish, in the state of Louisiana, and a citizen of said state:

6th. Aleck Ernest, residing in Livingston parish, in the state of Louisiana, and a citizen of said state:

7th. Adolphe Schreiber, residing in New Orleans, in the state of Louisiana, and a citizen of said state:

8th. William C. Keifner, residing in the parish of Livingston, in the state of Louisiana, and a citizen of said state:

9th. George Eike, residing in New Orleans, in the state of Louisiana, and a citizen of said state:

10th. Ventura Reyna, or Reyne, residing in New Orleans, in the state of Louisiana, and a citizen of said state:

11th. Milton L. Skank, residing in the parish of Livingston, in the state of Louisiana, and a citizen of said state:

2 12th. Joseph Minadeck, *alias* Jo Pomme D'or, residing in New Orleans, in the state of Louisiana, and a citizen of said state:

13th. Mistress Ann McGinn, widow of Henry McGinn, deceased, residing in New Orleans, in the state of Louisiana, and a citizen of said state:

14th. Henry Levy, residing in New Orleans, in the state of Louisiana, and a citizen of said state:

15th. John Sanchos, residing in New Orleans, in the state of Louisiana, and a citizen of said state:

16th. Frank Aufmkolk, residing in New Orleans, in the state of Louisiana, and a citizen of said state:

17th. Valentine Bohner, residing in New Orleans, in the state of Louisiana, and a citizen of said state.

18th. Joseph Ortamant, residing on Blind river, in the parish of Ascension, in the state of Louisiana, and a citizen of said state:

19th. August Hollocher, residing in the parish of Livingston, in the state of Louisiana, and a citizen of said state:

20th. William Pfister, residing on Blind river, in the parish of Ascension, in the state of Louisiana, and a citizen of said state:

21st. George Horn, residing on Blind river, in the parish of Ascension, in the state of Louisiana, and a citizen of said state:

22d. Christian Haley, residing on Blind river, in the parish of St. James, in the state of Louisiana, and a citizen of said state:

23d. Frank Sharwth, residing on Blind river, in the parish of Ascension, in the state of Louisiana, and a citizen of said state:

24th. John Barber, residing on Blind river, in the parish of Ascension, in the state of Louisiana, and a citizen of said state:

25th. Simon Robinson, residing on bayou Petit Amite, in the parish of Ascension, in the state of Louisiana, and a citizen of said state:

26th. John Cooley, residing on bayou Petit Amite, in the parish of Ascension, in the state of Louisiana, and a citizen of said state:

27th. John Letcher, residing on bayou Petit Amite, in Livingston parish, in the state of Louisiana, and a citizen of said state:

28th. Charles Belfantze, residing on bayou Petit Amite, in Ascension parish, in the state of Louisiana, and a citizen of said state:

29th. George Green, residing on the bayou Petit Amite, in Livingston parish, in the state of Louisiana, and a citizen of said state:

30th. Antoine Lobell, residing on bayou Petit Amite, in Ascension parish, in the state of Louisiana, and a citizen of said state:

31st. Henry Neushafer, residing on Blind river, in the parish of Saint James, in the state of Louisiana, and a citizen of said state:

32d. Stephen Kieregeay, or Ceirchay, called "Stephen" or "Esteven," residing on Blind river, at the house of Henry Neushafer, in the parish of Saint James, in the state of Louisiana, and a citizen of said state:

33d. Frank Williams, residing on Amite river, in the parish of Livingston, in the state of Louisiana, and a citizen of said state.

34th. Charles Tschirn, residing on Amite river, in the parish of Livingston, in the state of Louisiana, and a citizen of said state:

35th. John Hougham, residing on "the Island," in the parish of Livingston, in the state of Louisiana, and a citizen of said state:

36th. Charles Salassie, residing on Amite river, in the parish of Ascension, in the state of Louisiana, and a citizen of said state:

37th. Pierre L. Cornet, residing on Amite river, in the parish of Livingston, in the state of Louisiana, and a citizen of said state:

38th. Benjamin B. Cleneay, residing on Amite river, in the parish of Livingston, in the state of Louisiana, and a citizen of said state:

39th. Stephen Le Bourgois, residing on Amite river, in the parish of Livingston, in the state of Louisiana, and a citizen of said state:

40th. Andrew M. Davidson, residing at Clio, in Livingston parish, in the state of Louisiana, and a citizen of said state.

And thereupon your orators complain and say:

That in the year A. D. 1774, on the 5th of October, at New Orleans, in the then province of Louisiana, the bayou Goula and Houmas tribes of Indians, acting by their chief, Calazare, or Calizava, then present in said town, by an act passed before Andrez Almonaster y

Roxas, notary public, sold and conveyed unto Alexander Latil and Maurice Conway the land whereon said tribes then had their huts or village, about 22 leagues above the town of New Orleans, and on the same side of the Mississippi river, and that said lands, not having been surveyed, were described in said act of sale as having upwards of half a league in front on said river, and extending from the lands of John the Blacksmith, above, to the lands of an old Acadian named Peter below. (See translation into English of this sale in Senate document 144, 25th Cong., 2d sess., pp. 13 and 14, being the "Memorial of the representatives of Wade Hampton.")

That on the same day the said sale was approved by Don Louis Unzaga y Amezaga, then military and political governor of said city of New Orleans and province of Louisiana, who directed that the purchasers should apply to him for a patent or complete title for said land, which having been done, the said governor, on the 1st of November, 1774, issued to said Alexander Latil and Maurice Conway, in the name of the king of Spain, a complete patent for the same, in which the depth said lands were to extend from the Mississippi river towards the rear was fixed at 40 arpents.

(See approval of Indian sale and said patent of 1774, translated into English, on pp. 14 and 15 of Hampton's memorial, above referred to.)

That afterwards, to wit, in the year 1776, on the 9th day of September, Maurice Conway, at New Orleans, made his certain claim, petition or demand, addressed to said Don Louis Unzaga y Amezaga, military and political governor aforesaid, praying said governor to grant him all the back lands particularly set forth and described in said petition, as by the said petition when produced will appear, and that he would appoint Lewis Andry to place him, the said Maurice Conway, in possession of said land, and to survey the same and fix the boundaries thereof, and to do further acts and things needful in the premises.

(See this petition in Spanish in Senate Doc. 45, 28th Cong., 2d sess., pp. 7 and 8, and translation into English of same in Clark's "Laws, etc., Relating to Public Lands," appendix, p. 945; also Hampton's memorial, or Senate Doc. 144, etc., pp. 17 and 18.)

3 That in said petition the said Maurice Conway represented that he had purchased from Alexander Latil his half of the land sold them jointly by the bayou Goula and Houmas tribes of Indians, and that he was desirous to go upon the same and settle thereon, but that the same were deficient in fences and cleared out upwards of a league in depth, and that the cypress timber was distant about a league and a half in the depth, by reason of which he had no right thereto, the said governor having granted in virtue of the Indian sale aforesaid but 40 arpents in depth; that therefore he prayed the said governor to grant him *all* the depth which might be found in the rear of the said first 40 arpents in depth which he already possessed.

That afterwards, on the 27th of said month of September, 1776,

the said political and military governor made his order directing the said Louis Andry to go to the land applied for, and to place the applicant, said Maurice Conway, in possession of the same, if vacant, and if no injury would result to any of the adjoining inhabitants; to establish the boundaries of said land and to make to him, the said governor, a proces verbal, or return of his proceedings, in order that he might issue to the said Maurice Conway a complete title for the land so petitioned for and surveyed, as by the said order of said governor, when produced, will appear.

(For Spanish copy of this order, see Senate document 45, etc., p. 8, and for translations see Clark's Land Laws, etc., Appendix, p. 955; also Hampton's Memorial, etc., p. 18.)

That afterwards, to wit, on the 1st of October, 1776, or thereabouts, the said Louis Andry went to the land described in the said petition of Maurice Conway, where he first proceeded to measure and fix the front of the tract conveyed by the said Indian sale, made and approved as aforesaid, on the 5th October, 1774, and for which the said governor had issued his complete grant or patent on the 1st November, 1774, with the limitation of the depth thereof to 40 arpents, which front he ascertained by measurement to be 96 arpents, which being done, said surveyor ran out and marked and established on the ground the upper and lower side lines of said Indian sale and grant, fixing the upper line at a course of north 50° west, and measuring it out to a distance from the river of 40 lineal arpents, and fixing the lower one at the course of north 70° east, and measuring it out to a distance from the river of 40 lineal arpents, and at the extremities of said side lines planting posts or bournes for the back corners of said first grant of 96 arpents front with 40 arpents depth.

That this being done, said surveyor proceeded to survey and fix the boundaries of the second grant and to place the said Maurice Conway in possession of the same, which he did by extending the said upper and lower side lines, each in its own course to an additional depth towards the rear of two lineal arpents, and at such points fixing posts or bournes, as he stated, in order to keep the course; after which he placed the petitioner, the said Maurice Conway, in possession of the same, and did grant and make his certificate or proces verbal of his said proceedings, signed by him and by the said Maurice Conway and Don Louis Judice, then commandante of the district of Lafourche, which proces verbal of his said proceedings he afterwards returned to the said military and political governor; all of which by the said proces verbal, when produced, will appear.

(See said process verbal in Spanish, Senate Doc. 45, etc., pp. 8 and 9, and in English, Clark's Land Laws, etc., Appendix, pp. 955 and 956; also in English in Hampton's Memorial, pp. 18, 19, and 20.)

That afterwards, to wit, on the 21st day of the month of June, in the year 1777, Don Bernado de Galvez, then governor ad interim and intendant of said province of Louisiana, made and delivered to the said Maurice Conway his complete grant in the name and by the authority of the king of Spain, of the back or rear land so surveyed,

and whose boundaries had been by the said Louis Andry established as aforesaid, and of which the possession had been given to the said Maurice Conway; the said grant vesting in the said Conway an estate of inheritance in all the lands therein described, without condition or reservation, and without requiring any other act or thing to be done by the said Conway before the full, final, and complete vesting in him of said estate of inheritance in said lands; all of which by the said instrument of grant, when produced, will appear. (See said grant in Spanish in Senate Doc. 45, etc., pp. 9 and 10, and in English in Clark's Land Laws, etc., Appendix, p. 956; also in Hampton's Memorial, etc., p. 20; also, all of the foregoing in 2 White's Recapilacion, pp. 411 and 414.)

That by the survey of the boundaries of said land by the said Louis Andry it appeared that the same was situated on the left bank of the Mississippi river, in descending the same, about 24 leagues above the town of New Orleans, in the then district of La Fourche, with a front on said stream of 96 lineal arpents, and that the upper side line extended from said river into the interior of the country on a compass direction of north 50° west, the lower side line in like manner extending from the said river into the interior of the country on a compass direction of north 70° east, and both of said side lines diverging, in consequence, towards the rear, with an angle of 120° between the same, and that said side lines were not actually run out, measured, and marked upon the ground further into the interior than the distance of 42 lineal arpents from said river, where posts or bournes were set by said Andry, which with similar posts or bournes also set by him on each of said side lines near the said river would serve to fix the course of said lines into the interior whenever it might suit the convenience or interests of said Maurice Conway so to extend the same. That all this was done in conformity with the usages and customs and the circumstances of necessity of said province, and was not intended in any manner to limit or control the extent of the said lands to the rear and upon the prolongation of the said side lines as far as the jurisdiction and power of said governor to grant the domain lands extended.

That when the foregoing proceedings took place, and immediately before and after the same, the territorial limits of said province of Louisiana, in that vicinity, extended northward to the water boundary formed by the Iberville river and the chain of lakes and their connections now known as lake Maurepas, lake Ponchartrain, and lake Borgne, the said Iberville river, as then known, being the connecting link or arm between the Mississippi river and the lake Maurepas, now known as pass or bayou Manchac and Amite river.

That, therefore, the said grant of land so made by the authorities of Spain, in said province, to the said Maurice Conway, extended, and was so intended to extend, with a front on said Mississippi river, as stated, of ninety-six lineal arpents, or about three and a half miles, and in depth, between the side lines as heretofore described, to the said Iberville river and the said lake Maurepas. That all of

said territory, with the residue of the province of Louisiana, was at the times heretofore stated, beginning with the sale from the bayou Goula and Houmas tribes of Indians to Alexander Latil and Maurice Conway, in the possession of the crown or kingdom of Spain, as sovereign owner thereof, whose provincial authorities therein exercised the rights and faculty of making grants of the royal lands to the inhabitants thereof.

And your orators further show:

That under and by virtue of said petition made by the said Maurice Conway to said military and political governor, Don Louis Unzaga y Amezaga, and said order to survey said land and place the petitioner in possession thereof, and the survey and putting into possession thereof by said Andry, and the said proces verbal or return made by said Andry to the said governor ad interim, showing
4 all he had done in the premises, and especially under and by virtue of said grant or complete title made by the said governor *ad interim*, on said 21st day of June, 1777, the said Maurice Conway became vested, under the laws, usages, and customs then in force in said province of Louisiana, of an estate of inheritance in the lands described in said instrument of title, absolutely, without condition and with full right and authority to use and enjoy the same as his property.

That by the third article of the treaty between Spain and France, concluded at Saint Il Defonso on the first of October, 1800, the former sovereign ceded to the latter the province of Louisiana, with limits embracing the lands granted to Maurice Conway as aforesaid, and by the first article of the treaty between the republic of France and the United States, concluded at Paris on the 30th day of April, 1803, (8 Stats. at Large, 200,) the said province, with the same limits, was ceded to the United States, who took possession of the portion of the same embracing the now state of Louisiana, at New Orleans, on the 20th December, 1803.

That under an act of Congress approved on the 31st of October, 1803, (2 Stats., 245,) the President of the United States appointed Wm. C. C. Claiborne to be military and political governor of said province, and while he was in the exercise of his powers and duties as such, Wm. Donaldson addressed to him a petition, setting forth the grant of land to Maurice Conway, as heretofore set forth, and that the same then belonged to him, Wm. Marenner, and Patrick Conway; that they were desirous that the whole grant should be surveyed, and its lines marked, in order to avoid any interference with the proprietors of the neighboring grants, and expensive disputes, *et cetera;* and praying that said governor would permit the said Wm. Marenner, or some other fit person, to survey the said tract and mark the boundaries thereof, and that the surveyor should be protected by the military power of the province while making said survey, as will from said petition, when produced, more fully appear. (Senate Doc. 45, etc., p. 20; Hampton's Memorial, etc., pp. 29 and 30.)

That the said governor thereupon authorized said survey of said

grant, and directed the commandant of the district to extend to the surveyor his protection, if necessary; as will from the said instrument of license or permit, when produced, more fully appear. (Senate Doc. 45, etc., p. 21.)

That in pursuance of said license or order, the whole of said grant was surveyed and its out boundaries determined and marked upon the ground, the upper side line thereof being extended to the bayou Manchac, or ancient Iberville river, in the course of the first 42 arpents thereof, as surveyed by Don Louis Andry in the year 1776; and the lower side line in like manner extended to the lake Maurepas, in the course of its first 42 arpents, as likewise surveyed by said Andry in said year 1776. That said grant or tract of land having then passed by certain sales or other lawful modes of transfer from said grantee, Maurice Conway, to divers persons, the same was, under the said order or license of said Governor William C. C. Claiborne, further divided and surveyed into three distinct and separate parcels, with different fronts on said Mississippi river, all of them extending into the rear or interior, respectively, to the bayou Manchac, Iberville river, and lake Maurepas.

That on the 20th February, 1806, one Bartholomew Lafon made his certain plat and certificate of survey, testifying that he had, together with one Andry, both acting under said license or order of said Governor Claiborne, in the month of December, 1803, or the month of March, 1804, surveyed in favor of one William Conway the lower portion of said grant, being 27 arpents thereof front on the Mississippi river, and extending by diverging side lines to the Amite river and the lake Maurepas; and that the upper side line extended from said Mississippi river on a course N. 9° 15′ E. to the said Amite river, the distance of 351 lineal arpents, and the lower side line from the said Mississippi river on a course N. 70° 00′ E. to the said lake Maurepas, the distance of 455 lineal arpents; all of which will the more fully by said plat and certificate, when produced, appear. (See said certificates and plats in French Senate Doc. 145, etc., pp. 6, 7.)

And your petitioner further shows:

That on the 2d March, 1805, (2 Stats., 324,) an act of Congress was approved entitled "An act for ascertaining and adjusting the titles and claims to land within the territory of Orleans and the district of Louisiana," under the provisions of which a board of commissioners was in due time organized in said territory of Orleans, which embraced the lands heretofore described, with power to receive notices of claims, and the evidence in support thereof, to lands within said territory, to inquire into, examine, and investigate the same, and decide thereupon according to justice and equity. That under the 4th section of the said act, persons claiming land by virtue of any complete and perfect grant made before the 1st October, 1800, were allowed, if they saw fit, and persons claiming land under imperfect or incomplete grants were required to file before the register of the proper district, before the 1st day of March, 1806, notices in writing, stating the nature and extent of their claims,

together with plats of the lands so claimed, and before that day to deliver to said register, for the purpose of being recorded, every grant, order of survey, deed, conveyance, or other written evidence of their said claims.

That in order to force obedience to this act, and to induce the inhabitants to exhibit and record their said claims and evidence in support thereof, the 4th section of said act denounced certain penalties and forfeitures against said inhabitants in case of failure so to present their claims and evidence.

That by the 5th section thereof it was made the duty of the said board of commissioners, through their clerk, to prepare two transcripts from the books in which all their decisions were directed to be entered, of the favorable decisions upon the claims, one of which transcripts was to be filed with the officer exercising in the district the authority of surveyor general and the other to be sent to the secretary of the treasury, to be by him submitted to Congress for its determination thereon, at their next ensuing meeting after he should have received the same. And said act authorized a majority of said board of commissioners to make favorable decisions upon claims filed before them, and provided that said board should consist of three persons, by reason of which your orators aver that any two were authorized to make said favorable decisions.

And your petitioners further show:

That on or about the 28th day of February, 1806, William Conway filed his notice of claim, as owner under certain conveyances from Maurice Conway, before the said board of commissioners, with the evidence in support thereof, to a tract of land, being a portion of that granted by Spain to Maurice Conway on the 21st June, 1777, having a front on the Mississippi river of 22½ arpents, the upper side line running N. 9° 15′ E. 351 lineal arpents to the Amite river, and the lower side line running N. 70° E. 455 lineal arpents to the lake Maurepas, and both opening or diverging towards the rear 60°, bounded above by the lands of Daniel Clark, and below by the lands of Simon Laneau; as will, by said notice of claim and plat, and other evidence in support thereof, when produced, more fully appear. (Senate Doc. 45, etc., pp. 5 to 12; also p. 89, certificate of J. Genois, register; also American State Papers, Public Lands, vol. 2, p. 287, Duff Green's ed.)

That said board of commissioners took said claim into consideration, and on or about the 3d day of March, 1806, made their favorable decision, which is the words and figures following, to wit:

"No. 125. William Conway claims a tract of land situate in the county of Acadia, at a place called Houmas, on the left bank of the Mississippi, containing 22½ arpents in front, with an opening towards the rear of 60° 45′, the upper line running north 9° 15′ east 351 arpents, and on the lower line directed north 70° east and measuring 455 arpents, bounded on the upper side by Daniel Clark's land, and on the lower by the land of Simon Laneau"

"It appearing to the board, from a patent or complete title exhibited, that 17 arpents of front were, together with a greater quantity, granted by the Spanish government to Maurice Conway 21st June, 1777, and it appearing that the 5½ arpents of front remaining of the land aforesaid were purchased by Pierre Part at the public sale of the estate of the late Joachim Miro (alias Belony) on the 7th day of December, 1788; and it further appearing to the board, from the several instruments of conveyance offered in testimony, that the two tracts of land aforesaid have been conveyed to the present claimant, the board do hereby confirm his claim aforesaid." (See American State Papers, Public Lands, vol. 2, p. 287, Green's edition; Senate Doc. 45, etc., p. 5.)

That said decision recognized the said grant to said Maurice Conway as a complete and perfect grant, obligatory and binding upon the United States as successor of France and Spain in the province of Louisiana, under the treaty of Paris aforesaid, which decision being that of a special tribunal upon a subject-matter within its jurisdiction, was subject to no appeal, reversal, or modification whatsoever, save by the final action of Congress thereon. That by the 5th section of said act of Congress of March 2, 1805, (2 Stats., 324,) said decision was directed to be laid before Congress for its final action thereon, which was done by the secretary of the treasury on the 9th day of January, 1812, with a large number of favorable decisions on land claims rendered by the commissioners aforesaid. (2 Am. State Papers, Pub. Lands, Green's ed., p. 224.)

That under the 2d and 3d articles of the treaty of 30th of April, 1803, (8 Stats., 200,) whereby the United States acquired the province of Louisiana, the constitution and laws of the United States and the principles of equity and justice, it was forbidden to the United States to sell or dispose of, save by the law of the land, pending the decision of the Congress thereon, lands embraced in the favorable decisions aforesaid.

That in full recognition of this want of authority and of the obligation under the treaty aforesaid to protect the inhabitants in the enjoyment of their property, an act of Congress was approved on the 3d day of March, 1811, (2 Stats., 662.) providing for the survey and sale of the public lands generally in the territory of Orleans, then embracing the grant made to Maurice Conway, whose 6th section contained this pledge: "*And provided, also*, That till after the final decision of Congress thereon, no tract of land shall be offered for sale, the claim to which has been, in due time and according to law, presented to the register of the land office, and filed in his office, for the purpose of being investigated by the commissioners appointed for the purpose of ascertaining the rights of persons claiming lands in the territory of Orleans, or which shall have been located by or for Major-General Lafayette, according to law." That the claim of William Conway having been so presented to the commissioners for the eastern district of the said territory of Orleans, and having been decided favorably by said commissioners, the lands so claimed were

beyond the lawful power of sale or disposition, save by the laws of the land, either by Congress or any officer or authority acting under its direction, and that this absolute want and absence of all authority so to dispose of said lands, or any part thereof, continued without alteration until the full and final action by the said Congress upon the said claim.

That by an act of Congress approved the 18th April, 1814, entitled "An act concerning certificates of confirmation of claims to lands in the state of Louisiana," (3 State., 139.) the final action of Congress upon said favorable decision of said board of commissioners upon said claim of William Conway was probably pronounced, ratifying and approving the same, and providing means and measures for the granting a patent for the same under the laws of the United States.

And your petitioners further show: That on or about the same time when the said William Conway presented to the said board of commissioners his own claim for a portion of said grant to Maurice Conway, being 22½ arpents front thereof, and being the lower portion of said grant on the river Mississippi, Daniel Clark also presented his claim before said commissioners for another portion of said grant, having 20 arpents front on said river, and being immediately above the said 22½ arpents of said William Conway, and that William Donaldson and John W. Scott jointly presented their claim to another portion of said grant, containing 29 arpents in front on the same river, and being the uppermost part of said grant on said river. And that about the same time that said commissioners made their favorable decision on said claim of William Conway they in like manner rendered favorable decisions upon said claims respectively of the said Daniel Clark and of the said Donaldson and Scott. (2 American State Papers, Public Lands, 287, Green's edition; also Senate Doc. 45, etc., pp. 5 to 21.)

That in due time the surveying department of the government of the United States was organized in the state of Louisiana, which state had been admitted into the Union, with limits embracing the lands granted to Maurice Conway, and on the 14th of January, 1829, at Washington, Mississippi, James P. Turner, then surveyor of the public lands south of Tennessee, exercising in Louisiana the powers and duties of surveyor general therein, wrote to his immediate superior in office, George Graham, the commissioner of the general land office, telling how he thought the Houmas claim should be surveyed, and asking instructions in the matter. The said grant to Maurice Conway being then and since generally called the Houmas claim or Houmas grant. (Senate Doc. 45, etc, 24, 25.)

That on the 17th of February, 1829, the said George Graham wrote to the said Turner telling him, for reasons stated, to survey the grant in such a manner as to give it a depth extending out from the Mississippi river equal to a league and a half only, and not to survey it as extending to the depths claimed for the different subdivisions thereof before the board of commissioners, and according to the favorable decisions of said commissioners, as heretofore set forth;

all of which by the said letters of the said James P. Turner and of the said George Graham, when produced, will appear. (Senate Doc. 45, etc., 26, 27, Laws, Opinions, and Instructions, part 2, No. 879.)

That accordingly the said James P. Turner surveyed, or caused to be surveyed by his lawful deputies, the said subdivisions of said Houmas claim, as directed by the said commissioner of the general land office, which survey adopted and perpetuated for distances of 120 arpents from the Mississippi river the upper and lower side lines of the grant to Maurice Conway as they had been run and established by Louis Andry in 1776, to the distance of 42 arpents, and by Lafon, Andry, and Marenner in 1803, 1804, and 1805, to the Amite river and lake Maurepas respectively. (4 Opinions Attorney General, 662.)

And the side lines having been so terminated at 120 lineal arpents from the river, instead of a league and a half, as directed by said George Graham, which are equal to 126 lineal arpents, the difference being six lineal arpents or nearly a quarter of a mile, the rear line corresponding to that depth was surveyed and fixed so as to be throughout all its parts 120 arpents distant from the water
6 front, the said Mississippi river. That about the same time the said Turner, or his deputies, also surveyed and fixed another back line to the three divisions or parts of the said grant to Maurice Conway, by running a waving line parallel to and 42 arpents from the Mississippi river, uniting the corners or posts set by Andry in 1776, on the side lines, which, as has been shown, were set by him at said distance of 42 lineal arpents.

That by these operations the officers of the surveying department admitted and recognized the titles of the said William Conway, Daniel Clark, and Donaldson and Scott as legal representatives of the Spanish grantee, Maurice Conway, only to the extent of 42 arpents in depth from the Mississippi river, and the residue of said grant, lying back of and in the rear of the said 42 arpent line, and between it and the Amite river and the lake Maurepas, was held and claimed as public land of the United States, acquired as vacant land under the first article of the treaty of Paris of 30th of April, 1803; the portion thereof situate between said 42 arpent line and said league and a half line being reserved by said officers from further immediate survey, as debatable ground, upon which the rights of the claimants or the United States might finally attach and operate according to the decision of the courts, which tribunals, as stated by the said George Graham in his instructions to the said Turner, of 17th February, 1829, were alone competent to decide the question whether said land was private property or public land. (Senate Doc, 45, etc., 27, 97.)

That from that time to the present time the United States have asserted their right as proprietors under the treaty aforesaid, to all the land within the Houmas grant, as heretofore described, lying behind and back of the line surveyed under the authority aforesaid, at the distance of 42 lineal arpents from the Mississippi river. That

soon after the instructions of the commissioner of the general land office to the surveyor general, Turner, above referred to, nearly the whole of the lands in the said Houmas grant, situated back of the league and a half line, were surveyed by the United States as public lands of the same, and divided into townships, ranges and sections, under their system provided for the rectangular surveys of their public domain. That all of said back land situate in the divisions of said claim, known as the Daniel Clark and Donaldson and Scott divisions, were so surveyed and divided into sections, townships and ranges about the years 1829 and 1830, and a very large part of said land situated in the William Conway claim was about the same time and has been within the last three years so surveyed into sections, townships and ranges.

The whole of which will more conveniently appear and be explained by the accompanying map of said William Conway's claim and its connections herewith, filed as an exhibit to this petition and marked Exhibit "A."

That many thousands of acres of the said back land in the said Clark and Donaldson and Scott divisions of said grant, having been sold before and during the year 1836, (Senate Doc. 45, etc., 148 to 156,) and it appearing that the whole of said land of any value would soon be disposed of by the United States, J. S. Preston, an owner of a part of said lands, appealed (Senate Doc., etc., 45, pp. 28, 29) to R. C. Nicholas, then a member of the United States Senate from Louisiana, to induce the United States to desist from such actions on the part of its officers, who, on the 16th June, 1836, (Senate Doc. 45, etc., 28, 29,) wrote to Ethan A. Brown, then commissioner of the general land office, enclosing to him the letter of the said J. S. Preston; that on the following day, to wit, the 17th June, 1836, the said commissioner wrote the said senator, R. C. Nicholas, (Senate Doc. 45, p. 28,) admitting that the sales complained of were illegal and made in violation of law, being of lands embraced in a private claim filed before the commissioners for investigation, and not then finally acted on by Congress, and saying he had directed the land officers at New Orleans to cease said sales and to tell him what lands had been sold, in order that patents for the same might not be issued. That, accordingly, the said Ethan A. Brown, commissioner as aforesaid, wrote to the register at New Orleans on the 17th June, 1836, (Senate Doc. 45, p. 28,) telling him that, although he could not recognize the Houmas claim as valid to the whole extent claimed, pending final action of Congress upon the claim thereto, the sales already made in the claimed limits of the Houmas grant were illegal, and that no further sales should be allowed, as all of which will, when said letters are produced, the more fully appear.

That on the 2d day of December, 1837, M. Birchard, then solicitor of the general land office, to whom the commissioner thereof had referred for his opinion and report certain papers relating to the Houmas grant, made his written report to said commissioner, James Whitcomb, (Senate Doc. 45, pp. 29 to 43,) in which he re-

viewed at great length the facts and law of the same, and gave an equivocal opinion on the same and hostile thereto, recommending that said commissioner should refer the whole matter to Congress for decision. That said commissioner, on the 3rd of April, 1839, wrote to his superior, (Senate Doc. 45, p. 49,) Levi Woodbury, secretary of the treasury, stating the number of sales made in the Houmas claim, the controversy between the claimants thereunder and the settlers who had made purchases of said lands, submitting to him a copy of the solicitor's opinion of December 2, 1837, aforesaid, and asking his instructions or those of the attorney general what he should do in the premises. That said secretary of the treasury referred the matter to the attorney general, who, on the 16th of May, 1839, (Senate Doc. 45, p. 49.) advised him "that Congress alone possessed the power to make a fair and just disposition of the subject in controversy; that much public mischief might arise should the executive branch of the government proceed to act at that time, and that Congress should be applied to at an early day in the next session to take such measures as justice to the respective parties might demand." That the matter was laid before Congress at its next session, but that body took no action thereon at such session, and consequently the commissioner of the general land office, on the 3d October, 1840, (Senate Doc. 45, p. 58,) again applied to the secretary of the treasury for instructions, setting forth the absolute necessity of some action, but suggesting, as but a short time would elapse before another meeting of Congress, if it would not be better to defer action until that body would have another opportunity to legislate upon the subject. That said secretary wrote said commissioner on October 31st, 1840, (Senate Doc. 45, p. 54,) concurring in his opinion that nothing should be done until Congress should have further opportunity for legislative action. That in this state of uncertainty and indecision on the part of the executive officers of the government the then proprietors of the Houmas claim determined to apply to the United States to issue patents upon the three subdivisions of the same.

That accordingly, some time before the 13th of February, 1841, A. F. Rightor, at New Orleans, having a large interest in the William Conway claim, made application to J. Genois, register of the United States land office there, (Senate Doc., 45, pp. 54 and 55,) and whose duty it was, under the law applicable to such cases, to issue such instruments of title, for his patent certificate on said claim, and also for such certificate on each of the two other claims composing the Houmas grant, viz., that of Daniel Clark and that of Danaldson and Scott.

That said register declined to issue any of said certificates, and on said 13th February, 1841, (Senate Doc. 45, pp 54 and 55,) wrote to James Whitcomb, then the commissioner of the general land office, Washington city, laying before him the facts of the said application and his reasons for declining the certificate, and asking that he be instructed how to proceed.

7 That on the 30th June, 1841, (Senate Doc. 45, p. 55,) the said commissioner instructed the said register to defer action until definitely instructed on the subject by the department.

That on the 6th May, 1836, (Senate Doc. 45, pp. 89 and 91,) the surveyor general of Louisiana had approved a patent or particular plat of the claim of William Conway, made in pursuance of a survey thereof, under the authority of the United States, and which recognized said claim, as laid before the commissioners in 1806, extending to the Amite river and the Lake Maurepas, and it is believed by your orotors that such plat was filed before the register by the said A. F. Rightor when he demanded a patent certificate upon said claim of William Conway, aforesaid.

That on the 9th of August, 1841, (Senate Doc. 45, pp. 55 to 60,) at Washington city, Isaac T. Preston, acting for the parties in interest, addressed a letter to the commissioner of the general land office, in which, after stating the facts and the law of the William Conway claim, he made application for a patent thereon, by virtue of the confirmation of said claim by the act of 18th April, 1814, aforesaid, in which application he reminded said commissioner of the great injustice which had been visited upon the two claims of Daniel Clark and Donaldson and Scott by the sale of the lands embraced by the same, and prayed that the said patent might issue upon said Conway claim before sales had been made therein, and controversies and conflictions of interest should be produced thereby.

That the foregoing application by the said Preston for a patent on the said claim of William Conway, it seems, was referred by the said commissioners, with voluminous documents accompanying the same, to Charles Hopkins, then solicitor of the general land office, who took the same under consideration, and on the 30th of September, 1841, wrote an able report (Senate Doc. 45, pp. 85 to 89) to E. M. Huntington, then commissioner of the general land office, in which he advised the said claim had been confirmed by the act of 18th April, 1814, to the whole extent claimed before the commissioners, and that a patent should issue accordingly.

That the said report of said solicitor, with a large number of documents, maps, et cetera, relating to the subject, together with a statement of all that had been done in and about the premises by Congress and the executive officers of the United States, was, by letter of the 14th February, 1842, (Senate Doc. 45, pp. 89 to 91,) from the commissioner of the general land office, E. M. Huntington, submitted to Walter Forward, then secretary of the treasury, with the request that said officer would submit the subject to the attorney general, and afterward instruct him, the said commissioner, upon certain propositions of law therein stated, adding that the decision sought would also determine executive action upon the other two branches of the Houmas grant, meaning the claim of Daniel Clark and the claim of Donaldson and Scott.

That before any opinion of the attorney general was given, the secretary of the treasury, on the 2d of August, 1842, returned the

papers to the successor of said commissioner, Thomas H. Blake, for a statement of facts, and that by letter of 9th August, 1842, (Senate Doc. 45, pp. 94 to 99,) said Blake wrote McC. Young, then secretary of the treasury, giving at length the statement of facts called for. That these being submitted by the said secretary to the attorney general, that officer, on the 16th August, 1842, (Senate Doc. 45, p. 101,) wrote to the said commissioner propounding certain questions relating to the practice of the general land office in issuing patents on claims, and that on the said 16th August (Senate Doc. 45, pp. 101 and 102) said commissioner wrote the said attorney general giving the information required.

That on the 2d September, 1842, (Senate Doc. 45, pp. 104 and 105; 4 Opinions Att'y Gen., 92,) the attorney general wrote the secretary of the treasury that there could be no doubt all the sales of land within the claimed limits of the Houmas grant were null and void *ab initio* as made in violation of the sixth section of the act of March 3d, 1811, (2 Stats., 662,) advising that no more patents be issued on said sales, and that as to those already issued the remedy was with the courts. That said officer did not then or afterwards express his opinion upon the other points submitted to him, especially the point whether or not said claim had been confirmed by the act of 18th April, 1814. (3 Stats., 139.)

That on the 7th October, 1842, the said commissioner of the general land office wrote to the surveyor general of Louisiana, (Senate Doc. 45, pp. 105 and 106,) telling him he was not authorized, by approving a survey of the William Conway claim, to decide upon its extent or boundaries until those matters had been decided by the proper authorities; that such claim was before the attorney general, and that until he decided it the said surveyor general had no authority to proceed in the premises.

That on the 30th January, 1843, the register at New Orleans issued his patent certificates on the claim of Daniel Clark and the claim of Donaldson and Scott, testifying that said claims had been confirmed by the act of 18th of April, 1814, and that the interested parties were entitled to patents from the United States in the names of the said confirmers. (Senate Doc 45, p. 125.)

That on the 10th of February, 1843, the commissioner of the general land office wrote to said register rebuking him for issuing said muniments of title, and directing him to recall the same, saying that the whole question as to the confirmation and limits of the Houmas titles had been submitted to the supervisory power, and had not then been definitely settled. (Senate Doc. 45, p. 106.)

That on the 15th November, 1843, the secretary of the treasury wrote to Samuel D. King, (Senate Doc. 45, p. 114,) an attorney for parties then owning portions of the Houmas grant, declaring that he had not determined, nor would he determine, to what extent the said grant had been confirmed, and informing the said King that that question was for the courts of law or for Congress to decide, and on the 1st March, 1844, (Senate Doc. 45, pp. 114 and 115,) the com-

missioner of the general land office wrote to William R. King, a member of the United States Senate, telling him that the executive officers had uniformly declined to issue patents upon any of the portions of the Houmas claim, and would continue to refuse so to do until Congress or the courts should settle the fact and extent of the confirmations of said portions.

That on the 28th May, 1844, (Senate Doc. 45, p. 115,) W. C. Johnson, at Washington city, therein acting as attorney for owners of the two divisions of the Houmas grant confirmed to Daniel Clark and to Donaldson and Scott, made formal application to the commissioner of the general land office for patents on the same, which said application was, on the same day and by the same commissioner, referred to his official superior, the secretary of the treasury *ad interim*, McClintock Young. (Senate Doc. 45, p. 116.)

And your orators further show that finally the secretary of the treasury, George M. Bibb, on the 12th August, 1844, wrote to the commissioner of the general land office, Thomas H. Blake, an opinion, in which he reviewed the whole history of the Houmas land grant, and made his final decision thereon, holding that the portions thereof claimed before the land commissioners in 1806 by William Conway, Daniel Clark, and by Donaldson and Scott, had been confirmed to them respectively by the act of 18th April, 1814, and to the full extent to which said claims were preferred before said commissioners, and that the applications for the patents on said Donaldson and Scott and said Daniel Clark divisions, then before him for decision, ought to be granted and the patents issued. (4 Opinions Att'y Gen., 676 and 677; Senate Doc. 45, pp. 126 to 131.)

That on the 22d of August, 1844, the patents of the United States were accordingly issued and delivered for said Daniel Clark and Donaldson and Scott parts of the Houmas grant, thereby terminating all power and authority over said claims on the part of the executive department of the government of the United States. (Senate Doc. 45, pp. 131 and 134; 4 Opinions Att'y Gen., 677.)

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That on October 24th, 1844, the commissioner of the general land office wrote to the surveyor general of Louisiana, (Senate Doc. 45, p. 137,) informing him the secretary of the treasury had decided the Houmas claims confirmed and entitled to patents; that patents had issued on two of them, and instructing said officer to prepare and send to the register of the land office at New Orleans a special or patent plat of the unpatented claim, viz., the claim of William Conway, and on the same day the said commissioner wrote said register, (Senate Doc. 45, p. 138,) informing him of the same facts and proceedings, and intimating that it was then lawful and regular for him to issue a patent certificate upon said claim. That accordingly, on the 25th November, 1844, the said surveyor general certified a patent or special plat of said claim of William Conway, (Senate Doc. 45, pp. 138 to 143,) in order that said register might issue thereon his patent certificate, whereby it appeared that said claim or

tract of land, as claimed by William Conway in 1806, before the board of commissioners, by whom the same had been confirmed under the No. 125, contained the superficial quantity of 128,519.90 acres of land.

And afterwards the said register made and issued his patent certificate in favor of the said William Conway claim, thereby testifying it had been confirmed by the act of 18th April, 1814, and was entitled to a patent, according to the plat aforesaid, approved by the said surveyor general on the 25th November, 1844. (Senate Doc. 45, p. 26.) That on the 23d September, 1844, Isaac T. Preston, (Senate Doc. 45, p. 135,) and on the 19th October, 1844, W. C. Johnson, (Senate Doc. 45, pp. 134 and 135,) as agents or attorneys for owners of land within the said William Conway claim, made formal application to the commissioner of the general land office, asking that a patent for the same might issue, and your petitioners know of no reason why such patent would not have issued in due course had not the Congress of the United States interfered by a resolution of the United States Senate, passed on the 10th December, 1844, (Senate Doc. 45, p. 1; 4 Opinions Attorney General, 678,) and put in issue the power of the executive branch of the government to have issued the patents on the said claims of Daniel Clark and of Donaldson and Scott, and calling upon the secretary of the treasury for full reports of all he had done or caused to be done in the premises, with copies of all arguments, decisions, maps, certificates, surveys, entries, et cetera, in any manner applicable to the Houmas controversy. That the practical effect of such action by the Senate of the United States was to deter the executive officers thereof from issuing at that time the patent upon the William Conway claim, though such officers, as has been shown, were satisfied it was their duty to do so, and that it was the right of the parties in interest to receive the same.

That, in obedience to the said resolution of said Senate, the secretary of the treasury did, on the 8th of January, 1845, write to the president of said Senate, sending that body a lengthy report, giving the information called for, which report was subsequently printed, and is known as Senate document No. 45, of the second session of the twenty-eighth Congress, and contains a great portion of the official letters, decisions, plats, certificates, et cetera, heretofore referred to, and constituting in great measure the title of your orators to the lands hereafter to be more particularly described.

That on the 7th January, 1845, a joint resolution was passed by the House of Representatives of the United States, to wit: "*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the issuance of grants or other evidences of title upon a Spanish land claim in the state of Louisiana, lying on the Mississippi above New Orleans, commonly known as the Houmas claim, be, and the same are hereby, prohibited until the further order of Congress in relation thereto." (4 Opinions Attorney General, 678.) That said resolution failed to

pass the Senate for want of time at that session, but, with the resolution of said Senate aforesaid of the 10th December, 1844, it had the effect to induce the commissioner of the general land office thereafter to refuse to issue a patent on the William Conway claim, though specially requested to do so by the President of the United States, as your orators will show. (4 Opinions Attorney General, 678.)

That on March 3d, 1845, the owners of the Conway claim wrote to the President, requesting him to direct the commissioner of the general land office to do his duty and furnish them the proper evidence of their title, as the same had been furnished to the owners of the other portions of the Houmas grant, sending the President a note of the same date from the secretary of the treasury, in which said secretary stated that the three claims "are confirmed, and therefore patents ought to issue, if not already issued, conformably to the opinion" delivered by him. (4 Opinions Att'y Gen'l, 678.)

That, in answer to this request, the said President, on the same day, gave to the applicants an order, addressed to the said commissioner, telling him to "issue patents in conformity with the above recommendation and opinion of the secretary of the treasury," but the said commissioner still persisted in his refusal so to do. (4 Opinions Att'y Gen'l, 678.)

That on the 12th May, 1845, Isaac T. Preston, as counsel for the owners of said William Conway claim, again made application for a patent thereon, to James Shields, the then commissioner of the general land office, who, on the 24th June following, submitted the same, with a report to his immediate official superior, Robert J. Walker, secretary of the treasury, and asked his instructions in the premises, which instructions the said secretary failed or declined to give. (4th Opinions Att'y Gen'l, 679.)

That on 26th June, 1846, the Senate and House of Representatives passed a joint resolution, in the words and figures following, to wit, (9th Statute, 110:) "That the attorney general of the United States be, and is hereby, directed to examine the evidences of title in the case of a certain Spanish land claim in the state of Louisiana, lying on the Mississippi above New Orleans, commonly known as the Houmas claim, and to report his opinion thereon to the President of the United States, and if, in the opinion of the attorney general, any patent or patents issued, or which may be issued under such claim, shall have been or shall be issued contrary to law, that the President of the United States be, and is hereby, requested to cause proceedings to be instituted in behalf of the United States, and to have the validity of such patent or patents judicially determined."

That in compliance with said joint resolution, Nathan Clifford, the attorney general of the United States, on the 31st December, 1847, sent to the President his opinion and report, in which he reviewed at great length the material facts and the law of the Houmas controversy, concluding, and so advising the said President, that

the Houmas claim had not been confirmed by any act of Congress; that the patents issued thereon were utterly null and void, as issued without authority of law, and advising, finally, that the grant made in 1777 to Maurice Conway was a complete, valid grant, protected by the treaty of Paris of the 30th April, 1803, but only to the depth of 42 lineal arpents from the Mississippi river, and no more, and that all the lands within the claimed limits of said grant, situated farther from said river than 42 lineal arpents, were the public lands of the United States, acquired by them as vacant lands under the treaty aforesaid. (4th vol. Opinions Attorney General, 643.) That in due course, and in accordance with the foregoing opinion and report of the said attorney general, the President of the United States, some time in the year 1849, instructed the attorney of the United States for the district of Louisiana to institute
9 suits in this honorable court, and on the equity side thereof, against Daniel Clark, or his legal representatives, and Donaldson and Scott, or their legal representatives, to have the patents issued to them respectively on the 22d August, 1844, judicially annulled and cancelled, and the lands therein conveyed declared to be the property of the United States unaffected by said patents.

That on the 22d of November, 1856, a decree was rendered in one of the said suits, No. 1814, against said Daniel Clark and others, declaring said patent inoperative, as having issued without authority of law, and directing that within thirty days after notice of said decree the defendants should surrender the same for cancellation. That said notice was never given, and has not been given to this day, and said patents remain still outstanding. That no decree was ever rendered or made in the said suit against Donaldson and Scott, No. 1815, and the same is now at issue and stands ready for argument in this court.

And your orators further show: That the Congress of the United States, being then in possession of every material fact on which the owers of the Houmas grant founded their claims, having been fully instructed on the whole law of the case by the various reports, decisions, rulings, opinions, surveys, certificates, patents, *et cetera*, concerning or in any way affecting said claims, and which had been from time to time communicated to said body or to one or the other of its branches, did finally pass an act, which was approved by the President on the 2d of June, 1858, entitled (11 Stats., 294,) "An act to provide for the location of certain confirmed private land claims in the state of Missouri, and for other purposes," whose second section is in the words and figures following, that is to say:

"That the decisions in favor of land claimants made by P. Grimes, Joshua Lewis, and Thomas B. Robertson, commissioners appointed to adjust private land claims in the eastern district of the territory of Orleans, communicated to the House of Representatives by the secretary of the treasury on the ninth day of January, one thousand eight hundred and twelve, and which is [are] found in the American State Papers, Public Lands, (Duff Green's edition,) volume two,

from page two hundred and twenty-four to three hundred and sixty-seven inclusive, be and the same are hereby confirmed, saving and reserving, however, to all adverse claimants the right to assert the validity of their claims in a court or courts of justice.

"*Provided, however*, That any claim so recommended for confirmation, but which may have been rejected in whole or in part by any subsequent board of commissioners, be and the same is hereby specially excepted from confirmation."

That said second section acted upon and was intended to act upon and affirm in all things the decision, No. 125, in favor of the claim of William Conway, made on the 3d day of March, 1806, by the board of commissioners for the eastern district of the territory of Orleans, if the same had not been so affirmed and approved by the act of 18th April, 1814, (3 Stats., 139,) and that said section recognized in favor of said William Conway and all persons lawfully deducing title under him a full, clear, and indefeasible estate in all and every portion of the lands claimed by said Conway before said commissioners, and vested in them all title, claim, right or interest whatsoever which the United States had, or might have, or claim by virtue of the treaty of cession by which they acquired the province of Louisiana.

That on the 3d March, 1859, the Congress of the United States passed a joint resolution suspending until the next Congress the said second section of said act of June 2d, 1858, and declaring that in the meantime "no patent or patents shall be issued, nor shall any action be had by the executive branch or department of the government, or any officer or agent thereof, under or by virtue of said section," (11 Stats., 442.)

That on the 21st June, 1860, there was approved another act of the said Congress which is in the words and figures following, to wit: (12 Stats., 866.)

"*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the second section of an act passed the 2d day of June, one thousand eight hundred and fifty-eight, entitled 'An act to provide for the location of certain confirmed private land claims in the state of Missouri, and for other purposes,' and all other parts of said act which relate to lands in Louisiana, confirmed by said second section, [so far as said lands are concerned,] be and the same are hereby repealed.

"SEC. 2. *And be it further enacted*, That Congress hereby refuses to confirm to the claimants under the Houmas grant the lands embraced in certificates number one hundred and twenty-five to William Conway, number one hundred and twenty-seven to Daniel Clark, and number one hundred and thirty-three to Donaldson and Scott."

Now, your orators show that said act, in so far as it purports to repeal said second section of said act of June 2d, 1858, and by force of such repeal to revoke and cancel the grant thereby made to or recognized in favor of your orators, or those under whom they deduce their right, was and is an exercise of power by the legislative branch

of the government of the United States totally unwarranted and unauthorized by the constitution of the United States and the principles of justice, and was and is utterly null and void. That the title of your orators and those from whom they derive their right stands unaffected in any manner whatsoever by said repealing act, for the same is an attempt to take private property without compensation, without judicial proceedings, for no crime alleged or proved against the lawful owners thereof, and without due course of law.

But, now, so it is, may it please your honors that, notwithstanding the grant made to Maurice Conway by Spain, as aforesaid, on the 21st June, 1777, of all the lands heretofore described, and notwithstanding the decision of the commissioners for the eastern district of the territory of Orleans, made on the 3d March, 1806, as aforesaid, confirming to William Conway, under whom your orators hold the said lands by lawful conveyances or by due course of law, the portion of said lands heretofore and hereafter to be described as lands comprising the William Conway claim, and notwithstanding the confirmation of said grant and of said decision of said commissioners by the act of Congress of June 2d, 1858, (11 Stats., 294,) aforesaid, a large number of persons have gone upon the said lands or parts thereof in said William Conway claim, and are now there engaged in cutting down and removing and destroying immense quantities of the valuable cypress, pine, ash, oak, and other timber and wood growing or being upon said lands.

That these acts of trespass and spoliation are being carried on without the authority of your orators, or any of them, or of any person who now owns, or ever did own, any portion of said land, and in opposition to and defiance of the wishes of your orators, who have from time to time, within the past six months, protested against the same in every available way they could, such as sending agents and circulating hand-bills among the body of said persons, and by personal appeals to desist from said acts made by some of your orators to such of said persons as the could reach and confer with.

That in addition to the said persons who are cutting and removing and destroying said timber, and who have squatted on said land, and live mostly in camps, shanties and huts, built on the banks of the bayous and streams which intersect said claim and run through every part thereof, there are a number of other persons, residing chiefly in New Orleans and its vicinity, who are confederated and combined and who do confederate and combine with the aforesaid other persons, aiding and encouraging them to commit such acts of trespass by giving them counsel and information, furnishing them or many of them with money, food, tools, clothing and general family supplies of necessaries, but chiefly by sending steamboats, schooners, barges and other kinds of water craft among them for the purpose of transporting and bringing out from said lands into New Orleans, and other places, where the same is sold and disposed of, all or nearly all of the timber and wood so cut and taken from said lands, and of the shingles, staves, headings and sawed lumber

manufactured on or near said land, and out of the said timber and wood so cut upon the same.

Now, your orators aver that all of the said persons, so committing said acts of trespass, and their said confederates, aiders and abettors, who are made defendants in this suit, and a very large number of other persons who are camped and squatted on said lands, and committing similar acts of trespass thereon, together with their aiders, abettors and confederates, all of whom your orators pray may be made defendants to this suit, and served with the same process prayed for against the persons now made defendants herein, when their names shall become known to your orators, will and do maintain that the said lands are not the property of your orators, and that therefore your orators have no right to the same, nor to any timber or wood on or growing on the same, but that said lands are the property of the United States, or of the state of Louisiana, or both, or at all events not the property of your orators, and that hence your orators have no right to question their said acts of trespass, combination and confederation, nor to restrain the same, or in any way to interfere with them while doing the same.

And this they maintain and will maintain by reason, among other things, of divers acts of Congress, and certain rulings, opinions, surveys, selections and approvals of swamp lands, made from time to time, by certain executive officers of the United States, which, so far as known to your orators, are as follows, that is to say:

1st. They aver that by an act of Congress, approved on the 2d March, 1849, entitled "An act to aid the state of Louisiana in draining the swamp lands therein," (9 Stats., 352,) nearly the whole of the lands in the William Conway claim were granted to the state of Louisiana.

2d. They also aver that if said act did not grant the said lands, or the greater part thereof, to said state, that this was done by the act of Congress approved on the 28th September, 1850, entitled "An act to enable the state of Arkansas and other states to reclaim the swamp lands within their limits," (9 Stats., 519.)

3d. They also aver that whether said acts of 2d March, 1849, and 28th September, 1850, or either of them, granted said lands to said state or not, the same do not belong to your orators for the reason that Congress, by the act approved on the 21st June, 1860, entitled "An act to repeal the second section and other portions of an act passed the second day of June, 1858, entitled 'An act to provide for the location of certain confirmed private land claims in the state of Missouri, and for other purposes,'" (12 Stats., 866,) did repeal and revoke the grant or confirmation of said lands made in favor of your orators, or those under whom they derive their rights, as heretofore said, by the second section of the act of Congress approved June 2d, 1858, (11 Stats., 294.)

4th. Also they maintain and will maintain that your orators have no right to said lands by reason of the following rulings, opinions,

decisions, surveys, selections and approvals of selections, made from time to time by the executive officers of the United States, to wit:

A decision made by the commissioner of the general land office on the 22d June, 1877, (Copp's Land Owner, vol. 4, p. 70,) holding that the claim of William Conway had been confirmed for the whole quantity claimed, by the act of June 2d, 1858, (11 Stats., 294,) but that the part of said act so confirming said claim had been repealed by the act of June 21st, 1860, (12 Stats., 866,) leaving said claim to the treaty of Paris of 30th April, 1803, art. 3, for its protection, (8 Stats., 202,) and that by said treaty it was protected as a perfect grant to the depth of 80 lineal arpents only from the Mississippi river and no more, and directing the surveyor general of Louisiana to survey and treat the residue thereof as public lands of the United States.

A decision by the secretary of the interior, Carl Schurz, of the 4th May, 1878, modifying the aforesaid decision of said commissioner of the general land office, and holding that said claim of William Conway was valid only to the depth of 42 arpents from the Mississippi river, adopting the opinion to that effect of the attorney general of the United States, Nathan Clifford, of the 31st December, 1847, (4th Opinions Attorney General, 643,) and which opinion of said secretary concludes thus: "The lands hereby excluded from said claim will be treated and considered as public land of the United States, and subject to all rules governing the survey and disposal of the public domain." (This opinion or decision of Carl Schurz not yet reported.)

Another decision of said secretary, of the 9th May, 1878, withholding from disposition for three months the lands in the William Conway claim, so held by him to be public land, in order that your orators, or some of them, might have time to appeal to the judicial tribunals for the assertion and protection of their rights. (Not reported.)

Another decision of said secretary, on the 21st June, 1879, addressed to the commissioner of the general land office, directing that officer to carry into effect said secretary's decision of 4th May, 1878, so far as it affected the Conway claim. (Not reported.)

A decision of said commissioner of the general land office of the 8th July, 1879, addressed to the surveyor general of Louisiana, and telling him to treat all the land in the Wm. Conway claim, back of 42 arpents from the Mississippi river, as public land of the United States, and to let contracts to his deputy surveyors for its survey as such. (Not reported.)

Also the following contracts let by the surveyor general of Louisiana for the survey, as public lands of the United States, of portions of the land in said Conway claim situated back of the line drawn 42 arpents from said Mississippi river:

A contract let on the 31st July, 1879, to Owen McLeran, under which he surveyed about 20,000 acres of said land, comprising fractional townships 8 and 9 south, range 6 east, being in the northeast

corner of said claim, contiguous to the Amite river and lake Maurepas.

A contract let on the 25th September, 1880, to John Kap, under which he surveyed about 70,000 acres of said land, being all the land in fractional townships 8 and 9 S., R. 4 E., and of 8 and 9 S., R. 5 E., and that part of township 10 S., R. 5 E., within said Conway claim.

A contract let on the 3d March, 1881, to George H. Grandjean, under which he was surveying about 10,000 acres of said land, being in fractional townships 10 and 11 S., R. 3 E., when restrained by a preliminary injunction, issued out of this court in the cause in equity entitled "Alfred Slidell et als. *vs.* George H. Grandjean, No. 9483," and which said injunction is still in force.

A contract let on September 6th, 1881, to the said Grandjean, for the survey of about 20,000 acres of said land, being those parts of T. 9 S., R. 3 E., T. 10 S., R. 4 E., and T. 10 S., R. 6 E., situated within the Conway claim, which contract has lately been cancelled and set aside by the commissioner of the general land office, for the reason, as your orators are informed and believe, that the entering into the same by said Grandjean was a violation of said injunction issued against him in said suit No. 9483 aforesaid. All of which said contracts embrace the whole body of land situate behind
11 and back of a line drawn 42 arpents from said Mississippi river, and alleged by the aforesaid officers of the United States to be the property of the United States, and not the property of your orators.

6th. Also the following lists of selections made and certified by the surveyor general of Louisiana, of swamp and overflowed lands in said Conway claim, as enuring to the state of Louisiana under the grant alleged to have been made to said state by said act of 2d March, 1849, (9 Stats., 352,) to wit:

A list of selections dated May 1st, 1879, of lands in T. 9 S., R. 4 E., containing 10,745 11-100 acres.

A list of selections dated 18th August, 1879, of lands in T. 8 S., R. 4 E., containing 1502 31-100 acres.

A list of selections dated 22d December, 1879, of lands in T. 8 S., R. 6 E., containing 696 99-100 acres.

A list of selections dated 22d December, 1879, of lands in T. 9 S., R. 6 E., containing 13,077 19-100 acres.

7th. Also a decision or approval made by the secretary of the interior on June 10th, 1881, in which he approved, in behalf of the state of Louisiana, two of the aforesaid lists of selections, made on 1st May and 18th August, 1879, which said lists contained together 12,247 42-100 acres of land.

8th. Also another decision by the secretary of the interior, of 3d May, 1881, addressed to the commissioner of the general land office, telling him the state of Louisiana, under the grant to her of swamp lands by the act of Congress of 2d March, 1849, (9 Stats., 352,) was entitled, so far as the rights of your orators to the contrary were con-

cerned, to all the lands in said Conway claim back of the 42 arpent line, found to be swamp and overflowed, and thereby rendered unfit for cultivation. (Reported in Copp's Land Owner, vol. 8, p. 21.)

And what other pretenses the said defendants, and those who may be made defendants to this suit, allege and maintain, or may allege and maintain for their wrongful acts and against the manifest right of your orators, your said orators know not.

But now your orators aver, and show to your honors, that none of said pretenses ought to be held good and valid in this court, where such matters are cognizable, because they are, all of them, against equity and good conscience, and tend to the total ruin and destruction of the just and lawful property of your orators, because nearly the whole mass of the lands of your orators in said Conway claim is low swamp land, subject to occasional inundations from the Mississippi and Amite rivers, from the lake Maurepas, and from excessive rainfall, and is totally, with the exception of a few high spots, unfit for human abode, or settlement and cultivation, and only valuable for the cypress and other timber growing upon it, which the defendants under such pretenses are fast destroying and removing, and which, when destroyed and removed, will leave said land totally valueless to your orators.

And your orators further show, by way of avoidance of such pretenses, that as to that expressed under the 1st and 2d heads, to wit, that the said lands of your orators, or the greater part thereof, were granted to the state of Louisiana by the swamp land grant of 2d March, 1849, (9 Stats., 352,) or of 28th September, 1850, (9 Stats., 519,) the same is untrue, for that said grant was protected by the 8d article of said treaty of 30th April, 1803, (8 Stats., 202,) from such hostile legislation, and had been sanctioned and ratified as valid and binding against said United States by the decision of their commissioners heretofore referred to, made on the 3d of March, 1806, which was that of a special tribunal having exclusive jurisdiction of the subject-matter, subject to no reversal save that of the Congress of the United States, which Congress, as has been heretofore shown, did by the act of 18th April, 1814, (3 Stats., 139,) or the act of 2d June, 1858, (11 Stats., 294,) or both, affirm and approve said decision in every part.

That said grant was also impliedly, by the act of March 2d, 1805, (2 Stats., 324,) under whose provisions it was, with the evidence in support of it, submitted to the commissioners of the United States, and expressly, by the 2d proviso of the 6th section of the act of March 3d, 1811, (2 Stats., 662,) pledged to be respected as private property pending the consideration by the Congress of the United States of the claim for its recognition and affirmance by the said United States.

That said acts of 2d March, 1849, (9 Stats., 352,) and 28th September, 1850, (9 Stats., 519,) plainly excepted from their provisions the said lands of your orators, and in that respect harmonized with the policy of protection and pledge heretofore referred to, for that

the first of said acts saved all lands "claimed or held by individuals," and the second only conveyed lands which remained "unsold at the passage of" said act.

That as to the pretense expressed under the 3d head, that the estate of your orators in said lands was divested and forfeited by the act of 21st June, 1860, (12 Stats., 866,) your orators show and aver in avoidance that said act is and was in direct and apparent conflict with the 5th article of the amendments of the constitution of the United States, (R. S. 29,) because it seeks to deprive them of their property without due process of law, and to take the same for public use without just compensation, and hence was and is null and void, and could not operate to divest them of their rights in said lands.

That as to all the other pretenses set forth under the 4th, 5th, 6th, 7th, and 8th heads, being the rulings, opinions, and official acts of the executive officers of the United States, your orators say in avoidance that none of the same ought to affect their right to said lands, because, as will appear by an inspection of the same, especially the decisions of the commissioner of the general land office of 22d June, 1877, and of the secretary of the interior of 4th May, 1878, they all proceed upon the ground that the repeal of the confirmation of June 2d, 1858, cannot be questioned, but must be enforced by the executive officers of the United States, who, as they allege, are without power, under our system of government, to disobey a plain and positive act of Congress until the same shall be repealed or declared to be unconstitutional by the judicial tribunals of the land, from all of which it is too plain that said officers would never have made said rulings and decisions, and done the other acts and things heretofore set forth, had they considered themselves authorized to disregard an act of Congress which they impliedly admit to be unconstitutional; and as said act is so manifestly unconstitutional and may and should be so held by your honors, your orators aver that all the said rulings, decisions, and acts of said officers are without authority of law to sustain them, and cannot affect the right of your orators to said lands.

And your orators further show that they are the only true and lawful owners, under titles derived from William Conway, of all the lands in said William Conway division of said Houmas grant, and that the back or rear lands in said division, being the low swamp lands upon which the defendants are committing their acts of trespass and spoliation, are held by your orators not only in a state of indivision, but in unequal portions or shares, and that in consequence of great lapse of time, and of the great number of sales and other alienations, and modes of acquisition of title affecting the respective interests in said lands of your orators, and on which said interests rest, and of the necessity of maps and diagrams to explain said titles clearly, it is impossible for your orators now to set forth with greater precision and certainty their said interests and the successive conveyances or legal devolutions founding the same, but they will at all times hold themselves ready to file and exhibit a complete chain of title from said Wm. Conway to themselves, together with such plans

and diagrams as may be necessary to the clear understanding of the same. And your orators further show that, in addition to the survey under Spain of the said Houmas grant, made by Don Louis Audry in October, 1776, as heretofore stated, and in addition to
12 the subsequent surveys of the three subdivisions of said grant, made by different surveyors under the order or license of Governor Wm. C. C. Claiborne, as heretofore more particularly set forth, all of which surveys were ratified and approved by the commissioners of the United States when they made their favorable decisions on said claims in March, 1806, which said claims had been preferred before said commissioners upon said survey, under which each claimant filed his claim, and by virtue of which each claimant described the land claimed by him respectively, there have been made by competent authority, since the said favorable decisions of said commissioners, the following additional surveys of said William Conway claim, that is to say:

A survey of said claim by Andry McCollam, a deputy of the surveyor general of the United States for Louisiana, in virtue of which survey, and constructed from the field-notes thereof, said surveyor general made and certified on May 6th, 1836, a special or particular plat of said Conway claim, as a basis on which a patent might issue. (Senate Doc. 45, pp. 89–91.)

A survey of said claim, made by said McCollam and by E. D. Richardson, also a deputy of said surveyor general, by virtue of which, and constructed from the field-notes thereof, the said surveyor general made, and certified, on the 25th of November, 1844, another final and corrected special and particular plat of said Conway claim, (Senate Doc. 45, pp. 138 to 143,) on which last plat the register of the land office at New Orleans did, on the 7th of December, 1844, issue his patent certificate (Senate Doc. 45, p. 26,) testifying that said claim had been confirmed by the act of the 18th of April, 1814, and that William Conway was entitled to a patent therefor, according to said plat, and also testifying that said claim, according to said plat, contained an area of 123,516.90 acres of land.

That these surveys, and particularly the last, and the plat made and certified therefrom, fix and establish, in a lawful manner, with notice to all persons, the limits and boundaries of the lands of your orators, and that if the same were made or approved without lawful authority by the surveyor general, as heretofore set forth, which your orators deny, and the contrary of which they aver, the same were fully validated and sanctioned by the act of June 2d, 1858, (11 Stats., 294,) which acted upon and confirmed the claim of William Conway in all respects, and so far from requiring any other survey thereof, contemplated by its 3d section, that the register of the land office at New Orleans should, on his records, recognize and enforce the location of said claim, according to said surveys, and should then issue to the claimant thereof, as appropriate evidence of such location, his certificate, on which, if agreeable to the commissioner

of the general land office, he was directed to issue a patent as in other cases.

And your orators aver that said act of June 2d, 1858, was so suspended in its operation by the joint resolution of the Congress of the United States of the 3d of March, 1859, (11 Stats., 442,) that no patent could issue to them, or those under whom they derive their right, and before another opportunity occurred, the said Congress repealed the grant and confirmation as heretofore set forth.

That immediately after said act of 1858 was passed, the proper steps were taken by your orators, or those under whom they claim, to obtain a patent for their said lands, and that on the 11th day of January, 1859, the commissioner of the general land office held that the claim thereto, having been confirmed by said act of 1858, a patent ought to issue therefor, and submitted his decision to that effect to his superior, the secretary of the interior, before whom the same was pending when Congress passed said act of 1860, in consequence of which said secretary returned the application for patent, and said commissioner's favorable action thereon, to that officer, simply calling his attention to said repeal. That in the year 1877, just one hundred years after said lands were granted by Spain, the late John Burnside, having then a large share or interest in said Conway claim, and acting for all the owners thereof, applied again to said commissioner of the general land office for a patent on said Conway claim, which said officer, on the 22d June, 1877, being one hundred years and one day after Spain had patented and granted said lands to Maurice Conway, decided that no patent could issue thereon by the United States by reason of the repeal of the confirmation of said grant as heretofore set forth.

That thus it appears that your orators and those under whom they claim, from the origin of the American government in the province of Louisiana down to the present day, have at all proper times and on all proper occasions done all things in their power, not only to bring their rights and pretensions to the notice of the United States and to secure from it the recognition and protection of the same, but that all this, and all the acts and doings of the government of the United States, acting either through its legislative, executive or judicial departments, as heretofore particularly set forth in this bill, have been public, open and notorious, known to all men and concealed from none, making a written history of claims, grants, surveys, plats of surveys, patent certificates, petitions, protests, decisions, patents, acts of Congress, et cetera, which would, if all were printed, make several volumes.

That thus, and in divers other ways, your orators aver all of said defendants, and the whole body of depredators and trespassers upon said lands, and their said aiders, confederates and abettors, have at all times had ample notice of the rights of your orators, and of the very lands within the limits of their claim, and hence they cannot aver or be allowed to plead ignorance thereof.

That, therefore, all of said persons are willful and malicious tres-

passers and intruders upon the lands of your orators, where they are committing such acts of utter ruin and malicious destruction of all that renders said lands of any value, that unless restrained by your honors they will very soon render all of said lands totally valueless. That already said persons have cut and removed all the timber from a part of said land called the "the Island," containing about 1,280 acres, which island is formed by the Amite river on the north and "Old river" on the south, east and west, and being in T. 9 S., R. 5 E., and that as a consequence the land thereon has no further value to your orators. And these acts of spoliation are being carried on, and have been carried on, upon other portions of said lands to such an extent that such portions are likewise stripped of all the timber and wood thereon, and are in consequence rendered valueless.

That it would be quite impossible for your orators to estimate the value of the lumber, staves, cord-wood, shingles, etc., which the said depredators and their confederates are now cutting and removing from their said lands, but the same cannot be less than $500 for each and every day said depredations continue; the said lumber, cord-wood, staves, shingles, etc., being chiefly, if not wholly, brought to New Orleans by the vessels and boats of said confederates, aiders and abettors, and sold at the Old and New basins in said city, to which places said property is so brought through the canals leading to said basins from the lake Ponchartrain.

And your orators further say that they are in the actual possession of all the front lands in said Conway claim, and have been time out of mind cultivating the same as sugar plantations, and have upon said front lands three extensive sugar plantations which are cultivated to a depth of about three miles from the river; and that for several miles still further to the rear your orators have possessed and do now possess said lands in said Conway claim by maintaining and keeping open the large and expensive drainage canals and ditches long ago cut by them, or those under whom they claim, and also by cutting wood upon the same and using the same for pasturage.

13 That this possession is under claim of title, with lawful survey, as has been shown, to all of the rear lands in said Conway claim. That said lands, as thus claimed and possessed, are situate partly in the parishes of Ascension, Saint James and Livingston, in said state of Louisiana, fronting upon the left bank of the Mississippi river, a few miles below the town of Donaldsonville, and extending back from said river to the Amite river and lake Maurepas, and are more specifically described in the patent plat of said William Conway claim, certified by the surveyor general of Louisiana, on the 25th November, 1844, as situated in the following townships and fractional townships, to wit: T. 8, 9, 10, and 11 S., R. 3 E.; T. 8, 9 and 10 S., R. 4 E.; and T. 8, 9 and 10 S., R. 6 E., all in the former southeastern land district, east of the Mississippi river, Louisiana.

Now your orators aver that by reason of the great number of per-

sons known to be committing upon their lands the acts of trespass complained of, and of the persons known to be confederating with and aiding them in said acts of trespass, who are made defendants to this suit, and of other great numbers of persons committing on said lands the same acts of trespass, and their confederates, aiders and abettors, all of whom your orators pray as fast as their names are discovered may be made defendants hereto, with apt words to charge them as defendants, your orators are without remedy at law, except, if at all, by a multitude of ejectment suits and endless litigation in different and conflicting jurisdictions, and because, pending such suits, such persons would continue said acts of trespass, and because they are mostly poor people, with no property but their camps and huts, and against whom judgments in ejectment could not be executed and judgments for damages could not be collected. That equity alone will furnish, by the process of injunction, the only relief of any value to your orators by staying, perpetually, said acts of trespass, for which acts being totally destructive to the estate in said lands of your orators, actions at law could furnish no just satisfaction in damages, and no other effectual relief, and that said lands are of great value, exceeding one hundred thousand dollars.

In consideration whereof, and for as much as your orators can only have adequate relief in the premises in this honorable court, where matters of this nature are properly cognizable and relievable, and cannot have a plain, adequate, or complete remedy at law, and are only relievable in equity—

Your orators pray:

That a restraining order may now be granted against each and every of said defendants, and against all trespassers upon said lands, their confederates and abettors, and every person whomsoever, restraining them, their servants, agents, laborers and employees, until the further order of this honorable court, from committing any further acts of trespass and spoliation upon the lands of your orators heretofore described as situate in said William Conway claim, or upon any timber or wood growing or being upon the same, and that they be so restrained, each and every of them, their servants, clerks, agents, laborers and employees, absolutely from henceforth cutting, sawing or removing, or sending away from said lands, any of the cypress, ash, oak or other timber, logs or wood, growing or being on said lands, and from manufacturing or working the same into staves, shingles, lumber, cord-wood, or any other thing whatsoever, and from removing or sending away from said lands any staves, shingles, lumber, cord-wood, or any other thing so manufactured or made, or which may hereafter be so manufactured or made from any timber or wood growing or being on said lands; and from sending or taking any steamboat, schooner, barge, or other vessel to said lands to remove and bring away any timber, logs, wood, staves, lumber, shingles or other thing cut or taken from said lands, or which may be cut or taken from the same, or manufactured and made from any timber, logs or wood cut or being, or which may be cut or being on said lands.

And that an injunction *pendente lite* may issue against each of said defendants, his agents, servants, laborers and employees, restraining them and each of them from the acts of trespass and spoliation set forth in this bill, and as more especially set forth by your orators in their prayer for a restraining order.

And that it may please your honors and this court to now grant your orators writs of subpœna issuing out of this court, and under the seal thereof, directed to the said defendants, to wit: Thomas J. Emler, Milton B. Muncy, Franklin P. Marcy, Charles Mack, Stephen Ernest, Aleck Ernest, Adolphe Schreiber, William C. Keifner, George Eike, Ventura Reyna or Reyne, Milton L. Skank, Joseph Minadeck, alias Jo Pomme D'or, Mistress Ann McGinn, widow, etc., Henry Levy, John Sanchos, Frank Aufmkolk, Valentyne Bohner, Joseph Ortamant, August Hollocher, William Pfister, George Horn, Christian Haley, Frank Sharwth, John Barber, Simon Robinson, John Cooley, John Letcher, Charles Belfantze, George Green, Antoine Lobell, Henry Neushafer, Stephen Kieregeay or Cierchay, Frank Williams, Charles Tschirn, John Hougham, Charles Salassie, Pierre L. Cornet, Benjamin B. Clenay, Stephen Le Bourgois and Andrew M. Davidson; commanding each of them by a day certain and under a stated penalty to appear before this court and answer all the premises aforesaid, and then, after all further proceedings, to abide by such order and decree herein as shall be agreeable to equity and to good conscience and to this court.

And may it please your honors, and this court, on such final hearing of this action, to grant to your orators, issuing out of and under the seal of this court, a perpetual writ of injunction, directed to each of said defendants, and against all other trespassers upon said land, their confederates, aiders and abettors, and every other person whomsoever, absolutely and perpetually restraining each and every of them, their agents, servants, laborers and employees, from committing any acts of trespass and spoliation upon the lands of your orators in said William Conway division of said Houmas grant, or upon any timber or wood growing or being upon the same, and that they be so restrained, each and every of them, their agents, servants, laborers and employees, from cutting, sawing, removing or sending away from said lands any of the cypress, ash, oak or other timber, logs or wood growing or being upon said lands; and from manufacturing or working up the same into shingles, staves, lumber, cord-wood, etc.; and from removing or sending away from said lands any staves, shingles, lumber, cord-wood, or any other thing manufactured or made from any timber or wood growing or being on said lands; and from sending or taking any steamboat, schooner, barge or other vessel to said lands with the intent or purpose of removing or bringing away therefrom any timber, logs, or wood cut on or found upon said lands or any lumber, staves, shingles, or other thing manufactured from or made out of any timber, wood, or logs growing or being upon the said lands of your orators, as heretofore described by them.

And that your orators have judgment against said defendants, and all who may be made defendants in this suit, settling the title to said lands, and quieting and maintaining them in the enjoyment and possession of the same.

And your orators further pray that they may have such other relief in the premises as shall be agreeable to equity and to good conscience.

New Orleans, La., February, 1882.

By their solicitor:

(Signed) J. L. BRADFORD.

14 Nicholas H. Rightor, being duly sworn, doth depose and say that he is one of the complainants in the within bill; that several of his co-complainants are citizens of foreign states and of other states than Louisiana, but reside in parishes distant from New Orleans; that the allegations of fact in the within bill of complaint are true, and matters of belief and information herein contained are believed to be true.

(Signed) N. H. RIGHTOR.

Sworn to and subscribed before me this 15th day of February, 1882.

(Signed) JAS. T. CLARK,
Clerk of the Civil District Court for the parish of Orleans.

Order.

Upon reading and due consideration of the within bill of complaint, it is ordered by the court, That the defendants show cause on Saturday, the 25th February, 1882, at 11 o'clock a. m., why an injunction pendente lite should not issue herein in manner and form and to the extent prayed for in said complainants' bill of complaint.

(Signed) EDWARD C. BILLINGS,
Feb'y 15, 1882. *Judge.*

15 *Order on Bill of Complaint served on Milton B. Muncy, February 17th*, 1882.

ALFRED SLIDELL et al.
vs.
THOMAS J. EMLER et als. } No. 9828.

Upon reading and due consideration of the within bill of complaint, it is ordered by the court that the defendants show cause on Saturday the 25th of February, 1882, at 11 o'clock a. m., why an injunction pendente lite should not issue in manner and form and to the extent prayed for in said complainants' bill of complaint.

CLERK'S OFFICE.

I certify the foregoing to be a true copy from the original record in this office.

Witness my hand and seal of said court, at the city of New Orleans, this 17th day of February, 1882.

(Signed) T. V. COUPLAND,
[SEAL.] *D'y Clerk.*

Marshal's Return.

Received Feb'y 17th, 1882, by the U. S. marshal, and on same day, month, and year I served a true copy of the within rule on
16 Milton B. Muncy, one of the defendants herein, by handing the same to him in person in the city of New Orleans.

(Signed) C. G. BOUDOUSQUIE,
D'y Marshal.

Subpœna in Chancery to M. P. Muncy, issued February 17th, 1882.

United States of America.

The President of the United States to the marshal of the eastern district of Louisiana, greeting:

You are hereby commanded to summon Milton B. Muncy to appear before the honorable the judges of the fifth judicial circuit of the United States of America, at a Circuit Court to be holden on the first Monday of April, 1882, then and there to answer a bill in chancery filed against him and others, wherein Alfred Slidell and others are complainants and said Milton B. Muncy and others are defendants.

Herein fail not, and have you then and there this writ, with your endorsement thereon how you have executed the same.

Witness the Honorable Morrison P. Waite, chief justice
17 of the Supreme Court of the United States of America, this 17th day of February, in the year of our Lord one thousand eight hundred and eighty-two, and the one hundred and sixth year of American Independence.

(Signed) T. V. COUPLAND,
D'y Clerk.

This defendant is hereby required to enter his appearance in the clerk's office of the United States Circuit Court on or before the first Monday of April, 1882; otherwise the bill may be taken pro confesso.

(Signed) T. V. COUPLAND,
D'y Clerk.

Received Feb'y 17th, 1882, by the U. S. marshal, and on same day, month, and year I served a true copy of the within subpœna in chancery on Milton B. Muncy, one of the defendants herein, by handing the same to him in person in the city of New Orleans.

(Signed) C. G. BOUDOSQUIE,
D'y Marshal.

18 *1st Affidavit of A. C. Cornet.*—Filed Feb'y 25, 1882.

U. S. Circuit Court, e. dist. of La.

ALFRED SLIDELL et al.
vs.
THOMAS J. EMLER et als. } No. 9828.

STATE OF LOUISIANA,
Parish of Orleans.

On this 23d day of February, 1882, before me personally came Mr. Arthur C. Cornet, who, being duly sworn, doth depose and say: That he is twenty-eight years old and a citizen of the state of Louisiana; until the last four months has lived on the tract of land commonly called the William Conway claim, or the William Conway division of the Houmas claim, and is personally acquainted with all the back or low lands in said claim, and with all the bayous, rivers, lakes, and sloughs running through or being in the same, having been himself engaged for years in the business of cutting and removing cypress timber from said lands.

That there are large numbers of people of all colors, ages,
19 and conditions, and of various nationalities, living upon said lands, and have been living upon them for years; that they live chiefly in small houses or huts, and some of them in camps, on the banks of the said bayous, lakes, rivers, &c., &c.; only a few of them who occupy the ridges and high spots not subject to overflow cultivate the soil for a livelihood. The main body of them are engaged, and have been for years, in cutting and removing or destroying the cypress & oak timber which grows on said land, & for which alone it has any value. That a great part of said land principally adjacent to the streams has had all the timber and wood of any value cut and removed from it. A tract of about twelve hundred acres, called The Island, which has the "Old river" on the south, east, & west and the Amite river on the north, has been stripped of all its timber and is now of no value. All of this has been done by people who have no titles to the said land. That
20 very few of the people who are engaged in the timber business on said lands claim to have any kind of title to any part of the same, but they remain & carry on their cutting because others have done so before them, & because of certain evil-minded people who encourage them to go on, & who make money out of them by selling them goods & supplies, & who buy their timber, staves, shingles, &c., from them at about one-half what the stuff is really worth. Some few of the more intelligent people who have means claim to own parts of said land under titles derived from the state of Louisiana, and some of these claim to have state patents for some of these lands.

And deponent further says that he knows James L. Bradford, the agent and attorney for the Houmas claimants, & and has often seen him on the William Conway claim, and that said Bradford has tried

to induce the people either to stop depredating on said land or else to pay the Houmas claimants for the right to cut timber there.
21 But deponant does not know anybody who has stopped or who has paid or agreed to pay for cutting timber, *at* that at the rate at which the timber on said lands has been cut and removed for the last four years it will only require about three or four years more to strip of all the timber & wood and to leave the main body of said land of little or no value.

That all the timbers, lumber, cord-wood, shingles, staves, &c., which come from said lands, or very nearly all of it, is brought to New Orleans by steamboats, schooners, &c., through the bayou St. John and the New canal, and is sold at the Old and New basins in said city.

(Signed) A. S. CORNET.

Subscribed and sworn before me Feb'y 23, 1883.

(Signed) F. V. COUPLAND,
Comm'r United States Circuit Court eastern district of Louisiana.

22 *Affidavit of George K. Bradford.*—Filed Feb'y 25th, 1882.

U. S. Ct. Court, 5th cir't & east. dist. of La.

ALFRED SLIDELL et al.
vs.
T. J. EMLER et als. } No. 9828.

STATE OF LOUISIANA,
Parish of Orleans.

Before me, the undersigned authority, personally appeared George K. Bradford, who, being duly sworn, doth depose and say:

That he is a surveyor by profession, and has done much surveying for the United States, and resides in the state of Louisiana and city of New Orleans, and is twenty-six years old. That during the months of March, April, May, June, July, and August of last year he was employed most or nearly all of his time as an assistant of John Kap, a United States deputy surveyor, who had a contract with the United States surveyor general of Louisiana for the survey of a large part of the land in what is known as the William Conway division of the Houmas grant, situated west of lake Maurepas
23 and south of the Amite river, in Ascension and Livingston parishes. That while working in said claim he passed over and became personally familiar with nearly every portion of the same, saw, conversed with and became well acquainted with large numbers of people who live upon said William Conway claim, and learned their habits, mode of living, and their sentiments respecting the controversy about the lands they lived on. That the people who live on said lands are of various nationalities, and are both white and blacks. They are generally ignorant people, and seem to be possessed of but little property, and live chiefly in huts or small

houses on the banks of the streams, bayous, &c., which run through said claim. These people were mostly engaged when deponent was there, and has every reason to believe, and does believe, are still so engaged, in cutting, working up, and removing from said lands timber, such as cypress, ash and oak, with which such lands abound, and for which it is chiefly or wholly realizable. That said people generally do not claim to own any of said land, or to cut and remove
24 timber from the same by authority of any one, but do so because the same has been done by others before them; some of the people of the more intelligent class, and who have property, claim to own portions of said lands under titles derived from the state of Louisiana, but the great mass of them do not claim any titles whatsoever. Deponent has done a great deal of surveying in said William Conway claim in the last year, and is, hence, personally familiar with nearly the whole claim and all the bayous and streams in it.

A great deal of the land, principally on and near the streams, has already been stripped of all valuable timber, and is of but little, if any, value in consequence. "The Island," a tract of land containing some twelve hundred acres, situated in said William Conway claim, has had all, or about all the timber removed from it, and as the land is subject to overflow it has little, if any, value. That nearly the whole mass of the land in the William Conway claim,
25 after leaving the Mississippi three or four miles, is low swamp land subject to occasional overflow, and bears cypress, ash, oak and other timber of value. That there are saw-mills on the Amite river, at which nearly all the cypress saw-logs cut on the Conway claim are sawed up into lumber. This lumber is then shipped to New Orleans. Two or three small steamboats and a good many sailing vessels are nearly constantly employed plying between New Orleans and the William Conway claim, and they bring out very nearly, if not quite, all of the lumber, cord-wood, staves, shingles, &c., which come from said Conway claim.

(Signed) GEORGE K. BRADFORD.

Subscribed and sworn before me Feb'y 24, 1882.

(Signed) T. V. COUPLAND,
Comm'r U. S. Circuit Court eastern district of Louisiana.

26 *Affidavit of A. Schreiber.*—Filed February 25th, 1882.

U. S. Cir. Court, 5th circuit, e. dist. of La.

ALFRED SLIDELL et als. *vs.* T. J. EMLER et als. } No. 9828.

STATE OF LOUISIANA, *Parish of Orleans.*

Before me personally came Mr. Adolphe Schrieber, who, being duly sworn, doth depose and say:

That he is fifty years old, a citizen of Louisiana, and residing in the city of New Orleans. That for the year last past he has kept a store on the William Conway division of the Houmas grant, lying west of the lake Maurepas and south of the Amite river, in the parishes of Livingston and Ascension. That he has been engaged in the timber business on said Conway claim, that is, selling goods, supplies of provisions, &c., to people engaged in cutting timber, and receiving staves, shingles, &c., in payment. That he has spent much of his time over there, and has two sons who remain there
27 and keep the store while he is absent. That he has become familiar with the back lands in said claim, and with nearly all the people who are upon said lands, especially in the Blind river, on Little Amite, on the Cherme Blanc, and on the bayous leading into them; said lands are totally unfit for and incapable of cultivation, except a few spots chiefly near the Amite river, which are high and above overflow; on such spots some crops are raised.

The mass of the people have no other mode of living save by cutting wood and timber or manufacturing it after it is cut, or by transporting it on steamboats and other vessels to New Orleans. There are many men on said lands who employ numbers of men under them; some employ three or four, others six or seven, and some as high as ten men to get out and work the timber. On the upper parts of the claim adjacent to the Amite river a great many cypress saw-logs are cut and floated to the saw mills situated on the
28 Amite. In that part also the principal products into which the cypress is manufactured is shingles, but on Blind river and its tributaries in the southern part the cypress trees are mostly manufactured into staves for hogsheads and barrels. There are a great many people on the William Conway claim of all ages, sexes, and conditions, white and black, and of various nationalities. On Blind river the people are mostly white, and are Dutch or Germans. On the Amite and in that part they are mostly French and negroes; nearly all live in small houses or camps on the banks of the streams and have but little property; some have comfortable houses and others have stores of goods which they sell generally on credit to people cutting timber, and the timber, shingles, staves, &c., & the like in payments. Very few have or claim any title to land, but go on cutting, or manufacturing, or removing the timber and wood because they get it for nothing, and because others have done
29 it before them. A few people on and near the Amite river claim to own some land on the Conway claim under titles of one kind or another derived from the state of Louisiana.

Deponent has talked with a great many people on said claim about said title to the land, &c., the right of the people to cut and remove timber without the authority of the owners; some have always been willing to pay for the right to take timber, others never would consent; knows J. L. Bradford, attorney and agent for the Houmas claim, and has often seen him on the Houmas claim trying to induce the people to stop cutting or to pay for doing so, but his

efforts failed totally; knows that he printed or circulated freely among them handbills urging them to desist, and warning them against the consequences of continuing, but all had little or no effect. That large amounts of said lands, especially on and near the streams, have already been stripped of all the wood & timber of any
30 value, & consequently the land is entirely valueless; "the Island" has had all cut off of it, and has no more value; it is a tract containing about twelve hundred acres, and is bounded on the northward by the Amite river and on the southeast and west by Old river; that the low lands in the Conway claim have no value except for the cypress and wood on them; that said cypress & wood is fast being cut & removed, & if the cutting and removing goes on for a few years more as it has gone on for the last few years, it is safe to say that nearly all the low lands in said claim will be stripped of all their timbers and left totally valueless; that there are two or three small steamboats & about ten or a dozen sailing vessels, such as schooners and barges, nearly all the time engaged in the trade between the city of New Orleans and the streams touching or going through the William Conway claim; these vessels carry little or no freights except lumber, shingles, staves & cord-wood, and deponent believes that at least seventy-five per cent. of all such
31 property comes from said claim or from logs cut upon it and manufactured on or near it into lumber, staves, shingles & the like.

(Signed) A. SCHREIBER.

Sworn to and subscribed before me this 25th day of February, 1882.

(Signed) T. V. COUPLAND,
U. S. Comm'r.

Answer of Frank Aufmkolk's answer to the rule nisi.—Filed February 25th, 1882.

United States Circuit Court for the fifth circuit & east. dist. of La.

ALFRED SLIDELL et al.
vs.
THOMAS J. EMLER et al. } No. 9828.

Frank Aufmkolk, made defendant in the above-entitled and numbered case, & shows for cause why the injunctions prayed for in the plaintiffs' bill of complaint should not be granted or issued; that he is a stranger to the acts & doings complained of in said bill of complaint, and has no interest whatever in question or at stake in the present suit.

32 Wherefore he respectfully prays that the rule taken on him in this case to show cause as aforesaid be dismissed as to him, and he prays for general relief.

(Signed) SAMBOLD & DUCROS,
Solicitors.

Frank Aufmkolk now comes into court propria persona, and being duly sworn, deposes and says that the facts and allegations in the foregoing answer contained are correct and true.

(Signed) F. AUFMKOLK.

Sworn to and subscribed before me on this 25th day of February, 1882.

(Signed) K. LOEW,
U. S. Comm'r.

Hearing and Continuance.

Extract from minutes, November term, 1881.

NEW ORLEANS, SATURDAY, *February 25th*, 1882.

Court met pursuant to adjournment. Present: Hon. E. C. Billings, district judge.

ALFRED SLIDELL et al.
vs.
THOMAS J. EMLER et als. } No. 9828.

This cause came on to be heard on the application of the
33 complainants for an injunction pending suit.

J. L. Bradford, for complainants; Chas. S. Rice, for defendants Alex. Ernst & Val Bohner; Rouse & Grant, Sambold & Ducros, A. J. Lewis, and Joseph Brewer, appearing on behalf of certain other defendants.

When the solicitor for the complainants offered the affidavits of Geo. K. Bradford, A. Schreiber, and A. C. Cornet in support of the application for a preliminary injunction; and thereupon the solicitors for the defendants objected to said offerings on the ground that said affidavits ought to have been filed with the bill of complaint, to afford to the defendants an opportunity to meet the same. Whereupon the court allowed the affidavits to be filed, but continued the application for preliminary injunction until Thursday, the 2d day of March, 1882, at 11 o'clock a. m., with leave to the defendants to file counter-affidavits.

34 *2d Affidavit of A. S. Cornet.*—Filed March 2d, 1882.

U. S. Cir. Court, 5th circuit & eastern dist. of Louisiana.

ALFRED SLIDELL et als.
vs.
T. J. EMLER et als. } No. 9828.

STATE OF LOUISIANA,
Parish of Orleans. }

Before me, the undersigned authority, personally came Arthur S. Cornet, who, being duly sworn, doth depose and say:

That he is well acquainted with the lands in the William Conway division of the Houmas grant, and has lived on said lands many years, but now lives in Gretna, La.

That the following defendants in the suit of Alfred Slidell et al. *vs.* Thomas J. Emler et als., viz., Thomas J. Emler, Milton B. Muncy, Franklin P. Marcy, Aleck Earnest, Adolphe Schreiber, William C. Keifner, George Eike, Milton L. Skank, Mrs. Ann McGinn, and Henry Levy, have been engaged for some time past in taking or sending steamboats or schooners, or other kind of water craft,
35 from New Orleans to the streams and waters of the William Conway claim, and that said vessels bring out lumber, cord-wood, shingles, staves, and other timber and stuff, cut and taken from the lands in said Wm. Conway claim.

That the said vessels take supplies of provisions, tools, and necessaries of life to the people engaged in cutting, removing, or manufacturing timber and cord-wood upon said lands; and but for said vessels and other vessels taking supplies to said defendants and bringing out the timber, cord-wood, &c., &c., which is cut on said land, it would be impossible for said defendants to continue so to cut and work upon said lands; that deponent has good reason to believe and does believe that all of said persons are still engaged in taking or sending said vessels to said lands for the purposes aforesaid; that some of said persons are, or until lately were, engaged in selling or advancing goods, supplies, &c., to the people on said lands, and all of them from time to time buy for goods or money the
36 wood, timber, &c., cut on said lands, & which they bring out in their said vessels.

That the following other defendants, viz., Stephen Ernest, Adolphe Schrieber, Frank Williams, Charles Tschirn, John Houghin, Benjamin B. Cleanea, & Stephen Le Bourgeois, all have or keep country stores on said William Conway claim, and Andrew M. Davidson and his brother keep one on the border of but not immediately on it, & all of these persons have dealt largely with the people on said claim who cut wood and timber and who work the same up into lumber, shingles, and the like, giving them credit, supplying them with provisions, tools, &c., and taking timber, wood, shingles, &c., in pay, or else they buy the said timber, shingles, &c., for money & ship it to New Orleans.

This business the said defendants are now still engaged in, and doing it they contribute very greatly to aid and assist the settlers and squatters to carry on their trespasses. If it was not for the
37 country stores and the steamboats and other vessels furnishing supplies to the settlers and buying and bringing out the timber, wood, &c., the depredations would stop at once. That the following other defendants, viz., Wm. Pfister, George Horn, John Barker, John Cooley, John Letcher, Charles Belfantze, George Green, Antoine Lobell, Henry Neushafer, and Stephen Keiregeay or Creger, are all now on said land cutting, sending off, or working up the timber and cord-wood on the same. The last two live near the lower

line of the claim, and may not be on it, but they and the men under them cut timber on it and have done so to a very great extent; that Charles Salassie, Pierre L. Cornet, Andrew M. Davidson, & M. B. Muncy own or run or are interested in running & carrying on saw-mills, that of Salassie and that of Comet being on said Wm. Conway claim, and that of Davidson being on the border of the same; and these mills are employed to saw up cypress saw-logs, the great percentage of which are cut on said claim.

(Signed) A. S. CORNET.

38 Subscribed & sworn before me March 2d, 1882.

(Signed) T. V. COUPLAND,
Comm'r U. S. Circuit Court east. dist. of La.

U. S. Circuit Court in & for the east. dist. of La.

Affidavit of Frank Aufenkolk.—Filed March 2d, 1882.

ALFRED SLIDELL et al.
vs.
THOMAS J. EMLER et al. } No. 9828.

Frank Aufenkolk, made defendant in the above-entitled case, being duly sworn, deposes & says that he has not committed any of the acts complained of in the plaintiffs' bill of complaint, the allegations whereof are, as to him, or so far as he is concerned, altogether untrue, nor has he any interest whatever in the subject-matter of this litigation, and that it would be unjust to enjoin him as in said bill prayed for, & to force him to stand as party defendant to said suit at great cost and expense.

(Signed) F. AUKENFOLK.

Sworn to & subscribed before me 2d March, 1882.

(Sig'd) J. A. CHARBONNET,
U. S. Comm'r.

39 *3d Affidavit of A. S. Cornet and three accompanying papers.*—Filed March 7, 1882.

U. S. Circuit Ct., 5th circuit & e. dist. of La.

ALFRED SLIDELL et als.
vs.
THOMAS J. EMLER et als. } No. 9828.

Arthur S. Cornet, being duly sworn, doth depose & say:

I was living on the "island" on the William Conway division of the Houmas claim in the months June & July, 1881, and had been living there a long time. Some time in July J. L. Bradford, claiming to be the agent and attorney for the Houmas claimants, came over there and distributed all over the county by leaving them

at the store and others principal points a printed notice or appeal to the people on said claim, which was signed by him and was dated 44 Natchez street, New Orleans, La., July 11th, 1881," which began thus, "*To whom it may concern:* Take notice."

I know that said printed notices in large numbers were circulated among the people by said Bradford & his men, and some of
40 them were posted up at public places. I know that very soon after that Captain C. S. D. Porter, who was then employed by Captain M. B. Muncy to run boats for him up the Amite river, came over on a small steam tug and went around to the principal places on the claim and circulated two kinds of printed documents among the people. One of them was a proclamation of Governor L. A. Wiltz dated 21st July, 1881, and commenced thus: "*Whereas by a final decision of the executive branch of the government, &c.;*" and the other document was an address "To the people residing on lands bordering on the Amite, Old & Blind rivers, Petit Amite & lake Maurepas," and was signed by Muncy & Marcy and by T. J. Emler.

I know that all these three printed documents were freely circulated among the people on the Conway claim, & all who could read must have seen them. They were greatly talked about and created a great deal of interest, but they did not stop anybody from cutting or carrying away timber very long.

41 Printed copies of the documents I refer to accompany this affidavit, and I have placed my signature to each one at the top.

(Signed) ARTHUR S. CORNET.

Sworn and subscribed before me this 6th day of March, 1882.

[SEAL.] (Signed) W. H. SEYMOUR,
Notary Public.

Document filed with 3d affidavit of A. S. Cornet.

To whom it may concern:

Take Notice.

The owners of the William Conway branch of the Houmas grant having taken the proper legal measures to enforce their rights to their lands, which for so many years have been depredated upon by the people who have settled upon them, many of whom have directly or indirectly made large sums of money cutting the timber and cord-wood upon said lands:

This notice is to warn all such persons and all persons owning or navigating steamboats, sailing vessels, and other water craft
42 engaged in removing timber, cord-wood, shingles, etc., from said lands, that these acts of trespass must at once be discontinued. It is hoped that the seizures of logs heretofore made will not have to be followed by seizures of other kinds of property taken from these lands. But if timber and cord-wood is cut after this, it will be seized wherever found, as also shingles, staves, etc.

If these measures will not protect the land from spoliation, crim-

inal proceedings will be resorted to, and future depredators will be arrested and dealt with according to law. We appeal to all fair-minded, honest people to refrain from further taking property which in no way belongs to them, but to a large number of other people, many of whom are widows, orphans, and young children, as poor as any who occupy their lands. Some of the Houmas claimants are rich, it is true, but it is no crime to be so, and even the rich have their rights.

43 In order not to deprive people so long accustomed to this mode of making a living of an opportunity to continue it in a lawful mode, the claimants will soon appoint an agent at the head of the island who will grant written permits to cut saw-logs, cord wood, and get out shingles and the like at a fair and just rate of compensation to be then agreed on.

The William Conway division of the Houmas grant contains over 123,000 acres of land, and extends from the Mississippi river to the Amite and lake Maurepas. On the west it is bounded by a straight line beginning on the Mississippi a few arpents below the Houmas store of the late John Burnside on the Clark plantation, and extending in a course a little east of north to the Amite river at or very near Port Vincent. The southern line leaves the Mississippi on the lower side of the M. D. Brangier plantation, and extends to lake Maurepas in a course a little north of east, crossing Blind river less than

44 one-half mile below the "custom-house" or "Tiffany Henry's," and striking the lake about four miles southward from the mouth of Blind river. This line is the boundary between Ascension and St. James, and six miles of it lying within township 10 south, range 5 east, has lately been surveyed and marked by U. S. surveyors.

Appealing to all good people to desist from plundering our lands, we assure them whatever measures are hereafter adopted will be adopted simply for our own protection, and from no motive to harass or oppress any one.

(Signed,) J. L. BRADFORD,
Attorney and Agent for the Houmas Claimants.

44 Natchez street, New Orleans, La., July 11, 1881.

Document filed with 3d affidavit of A. S. Cornet.

Depredations on State Lands.—Proclamation by the Governor.

STATE OF LOUISIANA,

45 EXECUTIVE DEPARTMENT, NEW ORLEANS.

Whereas, by a final decision of the executive branch of the government of the United States, promulgated on the 3d day of May, 1881, the state of Louisiana has been fully confirmed in her title under the acts of Congress approved March 3d, 1849, and September 28, 1850, to large bodies of land embraced within the limits of what is known as the Houmas claim and the William Conway branch thereof; and whereas several townships within said claim

and branch claim have been officially surveyed, and the swamp and overflowed portions thereof have been selected for and certified to the state, and a large number of tracts within such townships so selected have, since such selections, been sold to citizens by the proper authorities of the state of Louisiana, which, when selected, are to be sold by the state according to law:

Now, therefore, I have thought proper to issue this, my proclamation, announcing the aforesaid final confirmation of the title
46 of the state of Louisiana to all the swamp and overflowed lands within the Houmas claim, and warning all persons against committing depredations upon the said lands, the property of the state of Louisiana, by carrying way timber therefrom, or in any other manner, under any pretense of permission or authority or otherwise, and furthermore warning all persons from interfering with or annoying the bona fide holders of any portion of said lands under title by patent from the state of Louisiana.

Given under my hand and the seal of the state this twenty-first day of July, 1881.

(Signed) LOUIS A. WILTZ,
Governor of Louisiana.

By the Governor:

(Signed) OSCAR ARROYO,
Ass't Secretary of State.

Document filed with 3d affidavit of A. S. Cornet.

To the people residing on lands bordering on the Amite, Old, and Blind rivers, Petit Amite, and lake Maurepas.

The undersigned owners of "steamboats, sailing vessels,
47 and other water crafts engaged in the lumber, cord-wood, staves and shingle trade," having seen a published notice signed by one J. L. Bradford as the agent of the Wm. Conway division of the Houmas claim, claiming to own the land in your section of the country, and warning all persons from engaging in removing timber, cord-wood, shingles, etc., from "said lands," and threatening "criminal proceedings" in case his warnings are not heeded—

We take this early opportunity of assuring you that we are not in the slightest degree intimidated, but propose to continue to navigate your waters and to purchase all such products of your labor as you may have to sell, without regard to the threats of seizure or of prosecutions by the said Bradford or confederates.

As you will see from the proclamation of the governor of Louisiana, the title to the lands in your neighborhood has been settled by the government in favor of the state, and that you will soon be able
to purchase such portions as you may desire and obtain pat-
48 ents therefor.

We regard Mr. Bradford's movements to obtain money

from you for property to which he has manifestly no right, as most extraordinary and unwarrantable, and should he or his agents appear among you demanding compensation for timber taken from these state lands, we would advise that you have nothing to do with him or them until their claim to these lands shall have been fully established by the courts of the country.

(Signed) MUNCY & MARCY,
Owners steamers Alice and Georgia Muncy, and agents schooner Carrie.

(do) T. J. EMLER,
Owner steamer Jennie.

Answer to rule by G. Eike.—Filed March 8th, 1882.

U. S. Circuit Court, east. dist. La.

ALFRED SLIDELL et als. *vs.* THOMAS J. EMLER & als. } No. 9828.

George Eike, a defendant herein, says, under oath, that he denies that plaintiffs have any legal title to the lands in question, and denies that they are now, or ever have been, in possession thereof.

49 That according to the Spanish laws and customs then prevailing, and the official action therein, the claim of Wm. Conway, as depending upon the authority of Spain, could be maintained only for the concession of forty arpents in depth from the Mississippi river, beyond which any prospective river acquisitions of said lands by said Wm. Conway were inchoate and unlocated at the cession of the territory of Louisiana to the United States, except the two arpents surveyed and located by Lewis Andry in October, 1776.

That by the failure to have said alleged Wm. Conway claim beyond 42 arpents located and confirmed within the period required by the act of Congress of May 26, 1824, entitled "An act enabling claimants of lands within the limits of the state of Missouri and the territory of Arkansas to institute proceedings to try the validity of their claims," and of June 17th, 1844, extending said provisions to Louisiana, said alleged claim became barred, if it ever ex-

50 isted, said lands freed therefrom, and were then subject to disposal as public lands.

That, as set forth in plaintiffs' bill, said lands are swamp lands, subject to overflow and unfit for cultivation, and were ceded in fee simple to the state of Louisiana by the federal government under act of March 2d, 1849, and September 24, 1850, and have been, before and since, disposed of in a great measure by the federal government and by the state of Louisiana to private individuals, who hold and possess the same as lawful owners.

That the claim No. 125, submitted to the board of commissioners March 3d, 1806, and by them acted upon, is stated by them as being thus bounded: "The upper line running north 9° 15′, east 351 ar-

pents, and on the lower line directed north 70° east, and measuring 455 arpents," the front line being the left bank of the Mississippi river, and the rear line a straight line connecting said two limits; that this is all that could be comprised within said claim in any event, and terminates a long distance from pass or bayou Manchac, the Amite river, lake Pontchartrain, and other waters in the rear and east of the Mississippi river.

Affiant further says that a legal survey has never been made of said Wm. Conway grant; that the plats referred to by plaintiffs were all made without legal authority, and therefore are void; that said plats only show the outlines of the claim made by complainants in argument, and do not purport nor appear to represent the claim as having been confirmed.

Affiant denies that he has ever aided, abetted, or conspired with other persons as charged, or committed a trespass on said lands himself, or assisted any person in trespassing thereon.

Affiant further says that the cutting of the timber on the lands claimed by the complainants will not be an irreparable injury, and that they have not brought any suit at law to establish their alleged title thereto at any time.

Affiant further says that he has a large capital invested in the lumber trade which he conducts in the city of New Orleans, where he has resided and traded for many years; that he has schooners which sail upon all the lakes, rivers, and navigable waters connected with lake Pontchartrain; that the Amite river, pass Manchac, and other streams mentioned in the complainants' bill are all navigable; that affiant and all other persons have a full, free, and inalienable right not susceptible of restriction by private individuals to navigate the same, anchor therein, land at the shores thereof, and openly and lawfully trade with the inhabitants there residing; that these inhabitants are and have been continuously in possession, & uninterruptedly, of the lands occupied by them as owners by lawful titles derived from the sovereign, publicly, notoriously, and without adverse claim or molestation, some ten, some twenty, & others thirty years and more; that the complainants have no right to seek to interfere with affiant in his lawful commerce, which if permitted would inflict serious loss upon affiant—an irreparable injury.

To all of which affiant makes oath to the best of his knowledge or belief.

(Signed) G. EIKE.

Subscribed and sworn before me March 1, 1882.

(Signed) T. V. COUPLAND,
Comm'r U. S. Circuit Court east. dist. of La.

Answer to rule by V. Reyne.—Filed March 8th, 1882.

U. S. Circuit Court, east. dist. La.

ALFRED SLIDELL & als.
vs.
THOS. J. EMLER & als. } No. 9828.

Ventura Reyne, a defendant herein, says under oath that he denies that complainants have any legal title to the lands in question, and denies that they are now or ever have been in possession thereof.

That according to the Spanish laws and customs then
54 prevailing, and the official action thereon, the claim of Wm. Conway as depending upon the authority of Spain could be maintained only for the concession of forty arpents in depth from the Mississippi river, beyond which any prospective acquisitions of said lands by said Wm. Conway were inchoate & unlocated at the cession of the territory of Louisiana to the United States, except the two arpents surveyed & located by Lewis Andry in October, 1776.

That by the failure to have said alleged Wm. Conway claim beyond said 42 arpents confirmed and located within the period required by the acts of Congress of May 26, 1824, entitled "An act enabling claimants of lands within the limits of the state of Missouri & the territory of Arkansas to institute proceedings to try the validity of their claims," and of June 17, 1844, extending said provisions to Louisiana, said alleged claim became barred if it ever existed, said lands freed therefrom, and were then subject to disposal as public lands.

55 That, as set forth in complainants' bill, said lands are swamp lands, subject to overflow and unfit for cultivation, and were ceded in fee simple to the state of Louisiana by the federal government under act of March 2d, 1849, and September 24th, 1850, & have been before and since disposed of in a great measure by the federal government and by state of Louisiana to private individuals, who hold and possess the same as lawful owners.

That the claim No. 125, submitted to the board of commissioners March 3, 1806, and by them acted upon, is stated by them as being thus bounded, "the upper line running north 9° 15′ east 351 arpents, & on the lower line directed north 70° east, and measuring 455 arpents," the front line being the left bank of the Mississippi, and the rear line a straight line connecting said two limits; that this is all that could be comprised within said claim in any event, and
56 terminated a long distance from pass or bayou Manchac, the Amite river, lake Pontchartrain, and other waters in the rear of the Mississippi river.

Affiant further says that a legal survey has never been made of said Wm. Conway grant; that the plat referred to by complainants were all made without legal authority, and therefore are void; that said plat only show the outlines of the claim made by complainant

in argument, and do not purport or appear to represent the claim as having been confirmed.

Affiant denies that he has ever aided, abetted, or conspired with other persons, or committed a trespass on said lands himself, or assisted any person in trespassing thereon.

Affiant further says that the cutting of the timber on the lands claimed by complainants will be an irreparable injury, and that they have not brought any suit at law to establish their alleged title thereto at any time.

Affiant further says that he has a large capital invested in the lumber trade which he conducts in the city of New Orleans,
57 where he has resided & traded for many years; that he has a schooner which sails upon all the lakes, rivers, and navigable waters connected with lake Pontchartrain; that the Amite river, pass Manchac, and other streams mentioned in the complainants' bill are all navigable; that affiant and all persons have a full, free, and inalienable right not susceptible of restriction by private individuals to navigate the same, anchor therein, land at the shores thereof, and openly & lawfully trade with the inhabitants residing; that these inhabitants are and have been continuously & uninterruptedly in possession of the lands occupied by them as owners, by lawful titles derived from the sovereign, publicly, notoriously and without adverse claim or molestation, some ten, some twenty, and others thirty years and more; that the complainants have no right to seek to interfere with affiant in his lawful commerce, which if permitted would inflict serious loss upon affiant, and irreparable injury.

To all of which affiant makes oath to the best of his knowl-
58 edge and belief.

(Signed) V. REYNE.

Subscribed & sworn before me March 1st, 1882.

(Signed) T. V. COUPLAND,
Commissioner U. S. Circuit Court eastern dist. of La.

Map of Conway claim offered by complainants March 9th, 1882. (Annexed.)

[Here follows map marked page 58.]

59 *Hearing and Submission of Motion for Injunction.*

Extract from the Minutes of March 30th, 1882.

ALFRED SLIDELL et al.
vs. } No. 9828.
THOS. J. EMLER et als.

This cause came on to be further heard on the application of the complainants for an injunction pendente lite. Whereupon the solicitor for Frank Aufenkolk, one of the defendants herein, submitted

the matter to the court on the two affidavits heretofore filed, and the other parties herein submitted it without further argument. When the court took time to consider.

Appearance of Defendants.

Extract from Chancery Order Book, April 8th, 1882.

ALFRED SLIDELL et al.
vs.
THOS. J. EMLER. } No. 9828.

George Eicke, Ventura Reyne, two of the defendants herein, by A. J. Lewis, their solicitor, have this day entered their appearance to complainants' bill of compl't.

60 *Appearance of Frank Aufenkolk.*

Entry in Chancery Order Book, April 10th, 1882.

ALFRED SLIDELL et al.
vs.
T. J. EMLER et al. } No. 9828.

Frank Aufenkolk, one of the defendants herein, by Sambola & Ducros, his solicitors, has this day entered his appearance to the complainants' bill of complaint.

Motion extending time for Frank Aufenkolk to answer.—Entered and filed May 1st, 1882.

United States Circuit Court for the east. dist. of La.

ALFRED SLIDELL et al.
vs.
THOMAS J. EMLER et al. } No. 9828.

On motion of Sambola & Ducros, attorneys for Frank Aufenkolk, a party def't of the above-entitled and numbered cause, it is ordered by the court that a delay of ten days be, and the same is hereby, allowed said defendant to file his answer to the plaintiffs' bill of complaint.

61 *Answer of Frank Aufenkolk.*—Filed May 6th, 1882.

ALFRED SLIDELL et al.
vs.
THOMAS J. EMLER. } No. 9828.

To the Honorable the Judges of the Circuit Court of the United States for the fifth circuit and eastern district of Louisiana:

The answer of Frank Aufenkolk, of the city of New Orleans, and one of the defendants in the above-entitled and numbered suit, to the bill of complaint of Alfred Slidell and others, complainants.

This defendant, now and at all times hereafter saving and reserving unto himself all benefit and advantage of exception which can or may be had or taken to the many errors, uncertainties, and other imperfections in said complainants' said bill of complaint contained, for answer thereunto, or unto so much of and such parts thereof as this defendant is advised is or are material or necessary for
62 him to make answer unto, this defendant, answering, says:

That he does not know or believe that he ever had, or did claim or pretend to have, nor does he now claim or pretend to have, any right, title, or interest of, in, or to the lands, estates, and premises in the said bill set forth, or the timber or wood on or growing thereon, or any part thereof, and this defendant does disclaim all right, title, and interest to or in said estates, lands, and premises and every part thereof, and to said wood and timber and every part thereof.

And this defendant, further answering, denies that he has squatted, or is living on or has gone upon, the said lands and premises, or any part or parts thereof, or is now or ever was engaged, directly or indirectly, in cutting down or destroying, in any manner whatever, the cypress, pine, ash, oak, or other timber or wood growing or being upon said lands and estates, or any part thereof, or that he has ever aided or encouraged, or is now aiding or encouraging, either
63 directly or indirectly, any such person or persons who has or had squatted, or does or do live, on said lands, or any part thereof, to commit any act or acts of trespass or spoliation or *distinction* upon said lands by giving them, or any of them, any counsel or information whatever, or furnishing them, or any of them, with money, food, tools, clothing, or general family supplies of necessaries, or by sending any steamboat or steamboats, schooner or schooners, barge or barges, or any other kind or kinds of water craft among them for the purpose of transporting or bringing out from said lands into New Orleans, or any other place or places, to be sold or disposed of there, the timber or wood so cut or taken from said lands, or any part thereof, or the shingles, staves, headings, or sawed lumber manufactured on or near said lands, or out of the said timber or wood so cut upon the same, or any part thereof, or that the said lumber, cord wood, staves, shingles, &c., which were cut or removed, or are now being cut or removed, from the said lands,
64 or any part thereof, were or are brought to New Orleans or elsewhere in or by any vessel or vessels, boat or boats, owned or controlled, in whole or in part, by this defendant, as in said bill set forth.

And this defendant, further answering, says that it may be true, for anything this defendant knows to *to* the contrary, that the complainants have a full and complete title or titles in and to said lands, and every part thereof, and that they are actually in possession and seized of the said premises, and every part thereof, but this defendant is an utter stranger to all and every such matter, and cannot form any belief concerning the same.

And this defendant, further answering, denies, however, that he

does, or did, or shall maintain that the said lands are not the property of the complainants, or that they have no right to the same, or to any timber or wood growing or grown on the same, or that said lands are the property of the United States, or of the state of
65 Louisiana, or of both, or that the complainants have no right to question the said persons' alleged acts of trespass, combination, or confederation, or to restrain the same, or in any way to interfere with them whilst doing the same, as in said bill set forth.

And this defendant denies all and all manner of combination, collusion, and confederacy wherewith he is by the said bill charged, without this, that there is any other matter, cause, or thing in the said complainants' said bill of complaint contained material or necessary for this respondent to make answer unto, and not herein and hereby well and sufficiently answered, confessed, traversed, or avoided or denied, is true to the knowledge or belief of this defendant; all which matters and things this defendant is ready and willing to aver, maintain, and prove as this honorable court shall direct, and humbly prays to be hence dismissed, with his reasonable costs and charges in this behalf most wrongfully sustained.

(Signed) SAMBOLA & DUCROS, *Solicitors.*

66 On this 6th day of May, 1882, before me personally appeared Frank Aufenkolk, of this city, the above named defendant, and made oath that he has read the above answer subscribed by him and knows the contents thereof, and that the same is true of his own knowledge, except as to the matters which are therein stated to be possibly true, and that as to those matters he cannot form any belief concerning them.

(Signed) F. AUFENKOLK.

Sworn to and subscribed before me on this 6th day of May, 1882.

(Signed) A. SAMBOLA, *U. S. Comm'r.*

Extract from Chancery Order Book, May 6th, 1882.

ALFRED SLIDELL et al.
vs.
THOMAS J. EMLER et als. } No. 9828.

Frank Aufenkolk, one of the defendants herein, by Sambola & Ducros, his solicitors, has this day filed his answer to the complainant's bill of complaint.

67 *Pro Confesso.*

Extract from Chancery Order Book, May 6th, 1882.

ALFRED SLIDELL et al.
vs
THOMAS J. EMLER et als. } No. 9828.

On motion of J. L. Bradford, solicitor for the complainants herein, and on suggesting that the defendants, viz: Thomas J. Emler, Mil

ton B. Muncy, Franklin P. Marcy, Charles Mack, Stephen Ernest, Aleck Ernest, Adolphe Schreiber, William C. Keifner, George Eike, Ventura Regna or Reyne, Milton L. Skank, Joseph Minadeck, alias Jo Pomme D'or, Mistress Ann McGinn, widow of Henry McGinn, Henry Levy, John Sanchos, Valentine Bohner, Joseph Ortamant, Auguste Hollocher, William Pfister, George Horn, Christian Hadley, Frank Scharwth, John Barber, Simon Robinson, John Letcher, Charles Belfantze, George Green, Antoine Lobell, Henry Neushafer, Stephen Kieregeay or Ceirchay, called Esteran, Frank Williams,
Charles Tschirn, John Hougham, Benjamin B. Cleneary,
68 Stephen Le Bourgeois and Andrew M. Davidson, have been duly respectively served with process of subpœna, and have failed to plead, answer, or demur within the legal delays.

It is therefore ordered that the said bill be, and the same is hereby, taken in all matters and things as confessed.

Consent of complainants' to set aside pro confesso.—Filed May 12th, 1882.

A. SLIDELL et als.
vs.
THOS. J. EMLER et als. } No. 9828.

The complainants consent that the defendants in said cause whose appearance has been entered by Messrs. Rouse & Grant may have ten days from this date within which to plead, answer, or demur, and that the decree pro confesso entered against said defendants on the 6th day of May, 1882, may set aside upon the filing of said plea, answer, or demurrer.

May 8, 1882.

All oaths waived.

(Signed) J. L. BRADFORD,
For Compl't.

69 *Order pro confesso set aside.*

Extract from Chancery Order Book, May 12th, 1882.

ALFRED SLIDELL et als.
vs.
THOMAS J. EMLER et als.

On motion of Rouse & Grant, and upon their exhibiting and filing the written consent of complainants—

It is ordered that the order entered in said cause on the 6th day of May, 1882, taking the bill for confessed against the following named defendants, be now set aside, and that they have leave to file demurrers, viz.:

Thomas J. Emler,	Geo. Eike,
Frank P. Marcy,	Aug. Holocker,
Milton B. Muncy,	Christian Holly,

Ventura Reine,	Charles Tschirn,
Charles Mack,	Pierre L. Cornet,
Stephen Ernest,	Chas. Salassie,
Geo. Horn,	John Barber,
Benj. B. Cleanery,	Simon Robinson,
John Letcher,	Frank Williams,
Chas. Bellefantze,	Jas. A. Davidson, adm'r est.
Stephen Le Bourgeois,	A. M. Davidson.

Considering the consent of complainant, it is ordered that
70 said demurrers be received and filed without requiring defendants to make affidavit to the same.

Joint and several demurrer of Valentine Bohner, Alexander Ernest, and Jos. Minadeck, alias Joe Pomme D'or, three of the defendants to the bill of complaint of Alfred Slidell and others, complainant.—Filed May 18th, 1882.

These defendants, by protestation, not confessing any of the matters in and by said bill complained of to be true in manner and form as the same are set forth, severally say that they are advised that there is no matter or thing in said bill good and sufficient in law to call these defendants to account in this honorable court for the same: but that there is good cause for demurrer thereunto, and they do demur accordingly, and for causes of demurrer say that said bill, in case the same were true, contained no matter of equity whereon this court can ground any decree or give complainant any relief as against these defendants.

71 Wherefore, and for divers other errors in said bill contained and appearing on the face thereof, these defendants do demur thereto, and humbly crave the judgment of this honorable court whether they are compellable or ought to make any answer thereunto otherwise than as aforesaid. And these defendants humbly pray to be hence dismissed with their costs and charges in this behalf most wrongfully sustained.

(Signed) JOSEPH BREWER,
CHAS. S. RICE,
Solicitors.

Personally appeared Valentine Bohner and Alexander Ernest, two of the above named defendants, and being by me duly sworn, deposed and said that the above demurrer is not interposed for delay.

(Signed) VALENTINE BOHNER.
his
ALEXANDER + ERNEST.
mark.

Subscribed and sworn to before me this 16th day of May, A. D. 1882.

[SEAL.] (Signed) ERNEST T. FLORENCE,
Not. Pub.

72 We certify that in our opinion the above demurrer is well founded in point of law.

(Signed) JOSEPH BREWER,
CHAS. S. RICE,
Solicitors.

Demurrer of Milton B. Muncy.—Filed May 12th, 1882.

ALFRED SLIDELL et al.
vs.
THOS. J. EMLER et als. } U. S. Circuit Court. No. 9828.

The demurrer of Milton B. Muncy, one of the defendants, to the bill of complaint of Alfred Slidell et als., complainants.

This defendant, by protestation, not confessing all or any of the matters and things in the said complainants' bill contained to be true in such manner and form as the same are therein set forth, doth demur to said bill, and for cause of demurrer shows that complainants have not, by their said bill, made such a case as entitles them to the relief prayed as to the matters contained in the said bill, or any of such matters.

73 Wherefore, and for divers other good causes of demurrer appearing in said bill, this defendant doth demur thereto, and he prays the judgment of this honorable court whether he shall be compelled to make any further or other answer to said bill, and he humbly prays to be hence dismissed with his reasonable costs in this behalf sustained.

(Signed) ROUSE & GRANT,
Solicitors for Defendant.

UNITED STATES OF AMERICA,
Eastern district of Louisiana, } *ss.*

Milton B. Muncy, defendant in the above entitled cause, being duly sworn, says that the foregoing demurrer is not interposed for delay.

(Signed) MILTON B. MUNCY.

Sworn to and subscribed before me this 12th day of May, 1882.

(Signed) ANDREW HERO, JR.,
Not. Pub.

I hereby certify that in my opinion the foregoing demurrer is well founded in point of law.

(Signed) WM. GRANT,
Of Counsel.

74 *Entry in Chancery Order Book, May 12th, 1882.*

ALFRED SLIDELL et al.
vs.
THOMAS J. EMLER et al. } 9828.

Milton B. Muncy, Thomas J. Emler, Frank P. Marcy, Ventura Reyne, Charles Mack, Stephen Ernest, George Horne, Benj. B. Cleneary, John Litcher, Charles Bellefantze, Stephen D. Bourgeois, George Eicks, August Hollocher, Christian Holly, Charles Tschirn, Pierre L. Cornet, Charles Salassie, John Barber, Simon Robinson, Frank Williams, and James A. Davidson, administrator of the estate of Andrew M. Davidson, defendants herein, by Rouse & Grant, their solicitors, have this day filed their seperate demurrers to the complainants' bill of complaint.

Entry in Chancery Order Book, May 18th, 1882.

ALFRED SLIDELL et al.
vs.
THOMAS J. EMLER et al. } No. 9828.

75 Valentine Bolmer, Alexander Ernest as Jos. Minadeck, alias Pomme D'Or, by Joseph Brewer and Chas. S. Rice, their solicitors, have this day filed their joint and several demurrer to the complainants' bill of complaint.

Amended Bill.—Filed May 26th, 1882.

ALFRED SLIDELL et als.
vs.
THOMAS J. EMLER et als. } No., 9828.

To the Honorable the Judges of the Circuit Court of the United States for the 5th circuit and eastern district of Louisiana, sitting in equity:

The amended bill of complaint in the above-entitled cause with due respect shows unto your honors that since the filing of the original bill in said cause it has come to the knowledge of your orators that certain of the defendants in said cause, in addition to a general denial of the title of your orators to the lands in the said original bill particularly described, maintain and assert that they themselves have some kind of title or right in and to certain parts or
76 parcels thereof; and that the said defendants who so make out that they are owners of parts of said lands, and the parcels so claimed by them are as follows, that is to say: Milton B. Muncy pretends to own or have some right to the—

S.E. ¼ of section 31, T. 8 S., R. 4 E.
All of " 36, " 9 " 4 "
S.W. ¼ of " 25, " 9 " 4 "
S. ½ of " 26, " " " " "

Milton B. Muney and Andrew M. Davidson pretend to own jointly or to have some joint right to the—

W. ½ of S.E. ¼, and the S.W. ¼ of sec. 15, T. 9 S., R. 4 E.
S. ½ of N.E. ¼ " 21.
N. ½ of S. ½ " 22.
W. ½ and S.E. ¼ of N.E. ¼, the S.E. ¼ and W. ½ of sec. 23.
E. ½ " 25.
N.W. ¼ " 25.
N. ½ " 26.

Alexander Ernest pretends to own or have some right to the—

S.W. ¼ of section 21, T. 9 S., R. 6 E.

Charles Salasie pretends to own or to have some right to—

Lots 3 and 4 and E. ½ of S.W. ¼ of section 10, T. 9 S., R. 4 E.
E. ½ and S.W. ¼ of N.W. ¼ " 15, " " " " "
N.W. ¼ of N.W. ¼ & N.W. ¼ of S.W. of sec. 17, " " " " "
N. ½ of S.E. ¼, W. ½ & N.E. ½ of N.E. ¼ sec. 18, T. 9 S., R. 4 E.

77 Pierre L. Cornet pretends to own or to have some right to—

Lots 1 and 2 of section 13, T. 9 S., R. 4 E.

And Stephen Le Bourgeois pretends to own or to have some right to—

N. ½ of section 3, T. 9 S., R. 6 E.
All of fractional " 14, " " " "
All of " 15, " " " "

Your orators also show that since the filing of their original bill of complaint in said cause, information has come into their possession by reason of which they are enabled to inform your honors which of said defendants are camped and squatted upon the lands in said original bill described, and are there personally doing the acts of spoliation and trespass complained of, and which of them reside in places away from said lands, but who aid and encourage the acts in the manner more particularly set forth in said bill. That the following defendants are so camped and squatted on said lands, that is to say:

Stephen Ernest, Aleck Ernest, Wm. C. Kiefner, Milton L. Skank, Joseph Ortamant, August Hollocher, Wm. Pfister, George Horn, Christian Haly, Frank Sharwth, John Barber, Simon Robin-
78 son, John Cooley, John Letcher, Charles Belfantze, George Green, Antoine Lobell, Frank Williams, Charles Tschirn, John Hougham, Charles Salassie, whose true name is Charles F. Salassie, Pierrie L. Cornet, Benjamin B. Cleneay, and Stephen Le Bourgois.

That the following named defendants are not actually camped or squatted upon said land, but reside off the same, and either carry on the said acts of depredation and ruin personally, or by their servants and assistants, or else aid and abet the same in the manner more particularly set forth in the original bill in this cause filed, viz:

Thomas J. Emler, Milton B. Muney, Franklin P. Marcy, Charles Mack, Adolphe Schriber, George Eike, Ventura Reyna or Reyne,

Joseph Minadeck alias Jo Pomme D'or, Mistress Ann McGinn, widow of Henry McGinn, deceased, Henry Levy, John Sanchos, Frank Aufenkolk, Valentine Bohner, Henry Newshafer, Stephen Kiercgeay, (called "Estevan,") and Andrew M. Davidson.

79 Your orators pray that this amended bill may be allowed and filed, and that they may have all the relief as in their original bill they have already prayed; and as in duty bound, &c.

By their solicitor.

(Signed) J. L. BRADFORD.

It is agreed that the within amendments may be filed without terms, and that the separate demurers filed by defendants through Rouse & Grant, their solicitors, stand for and be considered as demurrers to the bill as amended.

May 20th, 1882.

(Signed) ROUSE & GRANT,
For Defendants.

Let this amendment be filed.

May 26, 1882.

(Signed) EDWARD C. BILLINGS,
Judge.

Order denying Injunction.

Extract from Minutes, April Term, 1882.

NEW ORLEANS, FRIDAY, *June* 16th, 1882.

Court met pursuant to adjournment. Present: Hon. Edward C. Billings, district judge.

80 ALFRED SLIDELL et al. *vs.* THOS. J. EMLER et als. } No. 9828.

This cause came on to be heard on the motion for an injunction pendente lite and was argued by counsel.

Whereupon, and upon consideration thereof, it is ordered, adjudged, and decreed that the injunction pendente lite is denied upon the condition that each of said defendants will, on or before the 1 August next, file with the clerk of court bonds in favor of complainants in said cause, with one good and solvent surety to be approved by said clerk, conditioned for the payment of the value in case of final decree in said cause in favor of complainants, maintaining their title to the lands involved in this cause, of all wood, staves, saw-logs, shingles, or other property cut, manufactured, removed, or taken away from said lands by said defendants, their agents, servants, or assistants.

And it is ordered that *that* said defendants shall after giving
81 said bonds file with M. M. Cohen, U. S. commissioner, quarterly accounts under oath showing a fair and just statement of

all such wood, staves, shingles, saw-logs, or other property so cut, manufactured, or brought away by said defendants, or any of them.

And in case any defendant omits to give such bond and file said account or statement on or before August 1st, 1882, then the injunction shall issue as prayed for against him.

Provided, however, that the order directing the giving of bonds on the part of defendants and filing accounts, or the issuance of the injunction, shall not go into effect unless the complainants shall give a similar bond to answer to each defendant whatsoever damages he shall have suffered in consequence of said order in case the final decision of the cause shall be in favor of defendants. The amount of said bonds to be fixed by M. M. Cohen, esq., master.

This order is to operate only upon the defendants who, directly or indirectly, commit waste upon the lands claimed by complainants in their bill and not upon the purchasers of the same.

82 *Order Dismissing Bill as to Frank Aufenkolk.*

Extract from the Minutes of June 16th, 1882.

ALFRED SLIDELL & al. vs. THOS. J. EMLER et als. } No. 9828.

On motion of J. L. Bradford, of counsel for complainants, it is ordered that the bill in this case be dismissed as to Frank Aufenkolk, one of the defendants therein.

Order Amending Order Relative to Bond.—Received, entered and filed June 30th, 1882.

ALFRED SLIDELL et al. vs. THOMAS J. EMLER et als. } No. 9828.

The order made in the above cause on the 16th June, 1882, is explained hereby to require that in lieu of different bonds to be given by all the complainants in said cause, one bond in a single amount may be given by one or more of said complainants with one
83 good and solvent surety, the amount of said bond to be fixed and said surety to be approved by the master, M. M. Cohen.

(Signed) EDWARD C. BILLINGS,
Judge.

Decree.—Filed March 19th, 1883.

ALFRED SLIDELL et al. vs. THOMAS J. EMLER et als. } No. 9828.

This cause came on to be heard at this term upon the demurrers of Thomas J. Emler, Frank P. Marcy, Milton B. Muncy, Ventura

Reyne, George Horn, Benjamin B. Clancy, Charles Mack, Stephen Ernest, John Letcher, Charles Bellefontze, Stephen Le Bourgeois, George Eike, August Hollocher, Christian Holly, Charles Tschirn, Pierre L. Cornet, Charles Salassie, John Barber, Simon Robinson, Frank Williams, Frank Schwartz and James A. Davidson, administrator of the estate of Andrew M. Davidson, to the complainants' bill, and was argued by counsel. And thereupon, upon con-
84 sideration thereof, it was ordered, adjudged and decreed that the said demurrers be maintained, and that said bill be and the same is hereby dismissed as to the said demurrants, at the cost of the complainants.

(Signed) EDWARD C. BILLINGS,
Judge.

Order—Demurrer of V. Bohner & Others Fixed.

Extract from Minutes of April 7th, 1883.

ALFRED SLIDELL et al.
vs.
THOS. J. EMLER et als. } No. 9828.

On motion of Charles S. Rice, solicitor for defendants V. Bohner and others, it is ordered that the demurrers filed by said defendants be set down for argument on Saturday, 14th instant, at 11 a. m., and that the complainants' counsel be notified thereof.

Decree—Demurrer of V. Bohner and Others Maintained and Bill Dismissed, &c.—Entered and filed April 14th, 1883.

ALFRED SLIDELL et al.
versus
85 THOMAS J. EMLER et als.

This cause came on to be heard at this term upon the joint and several demurrer of Valentine Bohner, Alexander Ernest, and Joseph Minadeck, alias Joe Pomme D'Or, to the complainant's bill, and was argued by counsel. And thereupon, upon consideration thereof, it was ordered, adjudged, and decreed that the said demurrer be maintained, and that said bill be and the same is hereby dismissed as to said demurrants at the costs of the complainants.

(Signed) EDWARD C. BILLINGS,
Judge.

Certificate of Master as to Demurrers, &c.—Filed April 30th, 1883.

To the Hon. the Judges of the Circuit Court of the United States for the eastern district of Louisiana.

ALFRED SLIDELL et al.
vs.
THOMAS J. EMLER et als. } No. 9828.

This case was referred with directions to the master to cer-

86 tify as required by the provisions of equity rule 62 whether the separate demurrers filed by Rouse & Grant, esqs., solicitors, for certain of the defendants, were necessary and proper or should have been joined.

The master has examined the pleadings and the affidavits of the defendants. The solicitors have filed 22 demurrers; they are filled in on printed forms, and are all of the same nature, viz: that the complainants have not by their bill made such a case as entitles them to the relief prayed for.

Of these 18 were filed on the 12th May, 1882, and were not sworn to, the affidavits having been waived by the complainants. No reason is perceived why all those defendants should not have been joined in one demurrer.

Unless the oath is dispensed with it is imperatively required, and in cases like this, where the interests of the defendants are
87 diverse and their residences in most cases distant from each other and from the place where the court is held, ordinary prudence on part of the solicitors required that they should have the pleadings in readiness so as to avail themselves of the first occasion of their client's presence to obtain the necessary oath. On these considerations the following are allowed.

One demurrer, sworn to 11th May, 1882—1.
Two " " " 12th " " —2.
One " filed 26th May—no oath.

The master certifies to the court that five demurrers were necessary and proper and should not have been joined together.

Respectfully submitted,

(Signed) J. W. GURLEY,
Master, &c.

Entry in Chancery Order Book, April 30th, 1883.

ALFRED SLIDELL et als.
vs. } No. 9828.
THOMAS J. EMLER et als.

The parties in interest are hereby notified that J. W. Gurley, master, to whom was referred the matter of demurrers filed
88 herein, has this day filed his report.

Order—Master's Report Approved.

Extract from the Minutes of June 2d, 1883.

ALFRED SLIDELL et al.
vs. } No. 9828.
THOMAS J. EMLER et als.

On motion of Rouse & Grant, solicitors for defendants, and on suggesting that the report of J. W. Gurley, esq., master, on the reference as to the docket fees to be taxed herein against complainant

was filed April 30, 1883, more than 30 days ago, and has not been opposed, it is ordered that said report be approved & confirmed & that the docket fees be taxed in accordance therewith.

The master is allowed $25 for his report, to be taxed against complainant as part of the costs of the case.

Motion & Order partial discontinuance.

Extract from the Minutes of June 4th, 1883.

ALFRED SLIDELL et al.
versus
THOMAS J. EMLER et als. } No. 9828.

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On motion of J. L. Bradford, solicitors for the complainants in the above cause, it is ordered that the same be dismissed as to the following defendants: Adolphe Schreiber, William C. Kief, Milton L. Shank, Mrs. Ann McGuire, widow, &c.; Henry Levy, John Sanchos, Joseph Ortomant, William Phister, John Cooley, George Green, Antoine Lobell, Henry Newshafer, Stephen Kiercegeay, or Creger, John Hougham.

Motion and order for appeal.

Extract from the Minutes of June 4th, 1883.

ALFRED SLIDELL et al.
vs.
THOMAS J. EMLER et als. } No. 9828.

On motion of J. L. Bradford, solicitor for the complainants, in the above-entitled cause, and on suggesting to the court that the said complainants are aggrieved by the final decrees rendered against them in said cause, and which were entered against them in said cause, and which were entered and filed on the 19th of March
90 and 16th of April last past, and believing that there is error therein—

It is ordered that the said complainants be, and they are hereby, allowed an appeal therefrom, as against the foregoing defendants, to the Supreme Court of the United States, returnable therein on the second Monday of October next ensuing, upon the said complainants giving bond, with one solvent surety, in the sum of five hundred dollars, conditioned as the law directs.

Service of motion and citation on appeal accepted for appellees.

(Signed) J. P. ROUSE,
WM. GRANT,
for Appellees.

Bond for appeal.—Filed June 6th, 1883.

UNITED STATES OF AMERICA:

Know all men by these presents that we, Nicholas H. Rightor, as principal, and Edward T. Manning, as surety, are held and firmly

bound, jointly and severally, unto ———, in the sum of five hundred dollars, lawful money of the United States of America, to be paid to the said ———, heirs, executors, administrators, and
91 assigns, for which payment well and truly to be made we bind ourselves and each of us by himself, and each of our heirs, executors, and administrators firmly by these presents.

Sealed with our seals, and dated the fifth day of June, in the year of our Lord eighteen hundred and eighty-three.

Whereas the said Alfred Slidell and others, plaintiffs, having heretofore, to wit, on the fourth day of June, 1883, taken an appeal to the Supreme Court of the United States from and to reverse the decrees rendered on the nineteenth day of March and 16th of April, 1883, by the Circuit Court of the United States for the fifth circuit, holding sessions in and for the eastern district of Louisiana, in the suit of Alfred Slidell and others, complainants, *vs.* Thomas J. Emler and others, respondents, No. 9828 of the docket thereof—

Now, the condition of the above obligation is, that if the above bounden Alfred Slidell and others shall prosecute their said appeal to effect, and shall answer all damages and costs if they shall
92 fail to make good their plea, then this obligation shall be void; otherwise to remain in full force and virtue.

(Signed) N. H. RIGHTOR.
E. T. MANNING.

Signed, sealed, and delivered in the presence of

(Signed) J. L. BRADFORD.
W. H. WRIGHT.

UNITED STATES OF AMERICA,
Eastern district of Louisiana, } ss.

Personally appeared Edward T. Manning, who, being duly sworn, deposes and says that he is the surety on the within bond; that he resides in the city of New Orleans, state of Louisiana, and is worth the full sum of five hundred dollars over and above all of his debts and liabilities and property exempt from execution.

(Signed) E. T. MANNING.

Subscribed and sworn before me this 6th day of June, 1883.

(Signed) F. A. WOOLFLEY,
Commissioner U. S. Circuit Court eastern district of Louisiana.

93 *Agreement of counsel as to making of transcript of appeal.*—Filed June 16th, 1883.

United States Circuit Court, fifth circuit and eastern district of Louisiana.

ALFRED SLIDELL et als.
vs. } No. 9828.
THOMAS J. EMLER et als.

It is agreed by counsel in the above-entitled cause that, in making

up the transcript of the record of appeal therein, the clerk will copy as a part of said transcript the joint and several demurrers of Valentine Bohner, Alexander Ernest, and Joseph Minadeck alias Joe Pomme d'Or, and the separate demurrer of Milton B. Muncy. And it is agreed that all the other separate demurrers filed in said cause may be omitted from said transcript, to wit, of Frank T. Marcy, Ventura Reyne, both sworn to, George Eike, James A. Davidson, adm'r of Andrew M. Davidson, dec'd, John Barber, Christian Haley,
Thomas J. Elmer, Auguste Hollocher, Charles Bellefantze,
94 Stephen Ernest, Charles Mack, Benjamin B. Cleneary, George Horn, John Letcher, Frank Williams, Stephen Le Bourgeois, Charles Salassie, Pierre L. Cornet, Charles Tschirn, and Simon Robinson, not sworn to, all filed May 12th, 1882; also that of Frank Schawarth, not sworn to, and filed May 26th, 1882, by leave of court setting aside the pro-confesso as to said demurrant; all of which demurrers being similar to that of Milton B. Muncy.

And it is further agreed that it shall not be necessary to copy in said transcript the 38 subpoenas and marshal's return thereon endorsed, but only one of said subpoenas and the marshal's return upon, to wit, the subpoena directed to Milton B. Muncy, it being agreed that all the rest are copies of it, and that all were duly served and returned.

And that it shall not be necessary to copy in said transcript the 38 rules on defendants to show cause on the 25th February, 1882, why the injunction *pendente lite* should not issue with the mar-
95 shal's return thereon, it being admitted all the others are copies of the same, and that all were duly served and returned.

(Signed) ROUSE & GRANT,
Solicitors.

(do.) J. L. BRADFORD,
Solicitor.

New Orleans, La., June 14, 1883.

Motion to withdraw certain documentary evidence offered by plaintiffs.—Entered and filed June 16th, 1883.

ALFRED SLIDELL et al.
vs.
THOMAS J. EMLER et als. } No. 9828.

On motion of J. L. Bradford, solicitor for the complainants in the above cause, and on suggesting to the court that in anticipation of a trial of said cause upon the merits he filed with the clerk of this court a quantity of documentary evidence which has never been offered as evidence under the rules in equity causes, and cannot therefore be copied into the transcript of the record of appeal;

And on further suggesting that said evidence is useful to
96 him in other suits, and that he desires to withdraw the same from the clerk's office—

It is ordered that he be permitted to do so without leaving copies thereof on file, provided that no such evidence be withdrawn which has been regularly offered in evidence, or which, under the rules, should be copied into the transcript of appeal.

(Signed) EDWARD C. BILLINGS, *Judge.*

June 16, 1883.

Further agreement of counsel as to making transcript of appeal.—Filed July 2d, 1883.

United States Circuit Court, 5th circuit and eastern district of Louisiana.

ALFRED SLIDELL et al.
vs. } No. 9828.
THOMAS J. EMLER et als.

It is further agreed by counsel in the above-entitled cause that in making up the transcript of the record of appeal therein the clerk will not copy as a part thereof the 13 separate printed affidavits of M. B. Muncy, T. J. Emler, C. F. Selassie, Charles Tschirn,
97 Stephen Ernest, P. L. Cornet, S. Le Bourgeois, A. M. Davidson, Alex. Ernest, Valentine Bohner, B. B. Cleneay, Jo Minadec, alias Jo Pomme D'Or and Frank P. Marcy; said affidavits having been filed in said cause on the trial of the application for an injunction *pendente lite* only.

July, 1883.

(Signed) J. L. BRADFORD,
Counsel for Pl'ffs.

(Signed) ROUSE & GRANT,
for Appellees.

Instructions to Clerk by Appellants relative to Transcript.—Filed July 9th, 1883.

NEW ORLEANS, LA., *July 7th*, 1883.

F. A. WOOLFLEY, esq., clerk U. S. Circuit Court, present:

DEAR SIR: In the suit of Alfred Slidell et als. *vs.* Thomas J. Emler et als., No. 9828, I was allowed, by order of court, to withdraw a large amount of documentary evidence I had filed in the course of the cause, none of which was offered or used in the case, as
98 it went off on demurrers. In making up the transcript of the record of appeal, you are therefore authorized not to copy into the same any of said documents. Their dates of filing and description being as follows, to wit:

Filed March 8th, 1882.

1st. List of swamp land selections in T. 8 S., R. 4 E.
2d. " " " in T. 9 S., R. 4 E.

3d. Letter from Comm'r G. L. O. to R. & R. at New Orleans, La., of Oct. 31, 1878.
4th. Decision of Comm'r G. L. O., of July 9, 1878, refusing to reinstate entry of John Sides.
5th. Approved list of swamp land selections in T. 8 & 9 S., R. 4 E.

Filed March 22, 1882.

6th. Document containing the following—
Lafons' plat of Wm. Conway, of Feb'y 20th, 1806. His process verbal of survey of 20th February, 1806.
Maurice Conway's petition of 9th Sept., 1776.
Unzagas' order of survey of 27th Sept'r, 1776.
Andry's process verbal of survey of 1st Oct., 1776.
Galvez's patent of 21st June, 1777.
Deed of Maurice Conway to Wm. Conway, of 27th M'ch, 1791.
99 Decision of old board, No. 125, on Wm. Conway's certificate of register at N. O., of 16th Sept'r, 1841.
7th. Copy of notice of claim of Wm. Conway before old board in 1806.
8th. Sworn translation of Lafons' process verbal of survey of 20th Febr'y, 1806.
9th. Comm'r's letter to sur. gen'l, of Aug. 17th, 1844.
10th. " " " Oct. 24, 1844.
11th. Certified list of state entries in T. 8 S., R. 4 E.
12th. Certified abstract of state entries in T. 8 & 9 S., R. 6 east.
13th. " " " sales in T. 9 S., R. 4 E.

Filed April 8th, 1882.

14th. Document containing the following certified copies of—
Comm'r G. L. O. to sur. gen'l of La., of Oct. 24, 1844.
" G. L. O. to sec'y of treasury, of June 24, 1845.
Approved list of swamp land selections in T. 8 & 9 S., R. 4 E.
Comm'r G. L. O. to register at N. O., La., of October 24, 1844.
100 Secretary of interior to G. L. O., of May 4, 1878.
of May 3, 1881.
of May 9, 1881.
of June 21, 1879.
Comm'r G. L. O. to sec'y of interior, of Jan'y 11th, 1859.
Secr'y of interior to Comm'r G. L. O., of Dec'r 10, 1860.
Pat. cert. on Wm. Conway claim, of Nov. 15th, 1858.
Jno. Slidell to Comm'r G. L. O., of Nov. 17, 1858.
Register at N. O., La., to Com. G. L. O., of Nov. 15, 1858.
15th. Document containing the following certified copies of—
Comm'r G. L. O. to sur. gen'l of Miss., of Feb'y 7, 1829.
" " " R. C. Nicholas, U. S. Senate, June 17, 1836.

Comm'r G. L. O. to register at N. O., La., of June 17, 1836.
" " " sec'y of treasury, of Ap'l 3, 1839.
Sec'y of treas'y to Comm'r G. L. O., of May 16, 1839.
Att'y gen'l U. S. to sec'y of treas'y, of " "
Comm'r G. L. O. to " " Oct. 3, 1840.
Register at N. O., La., to Comm'r G. L. O., of Feb'y 13, 1841.
Comm'r G. L. O. to register at N. O., La., of June 30, 1841.
Isaac T. Preston to sec'y of treas'y, of Jan'y 1, 1841.

Filed April 17th, 1882.

16th. Sworn copy of decision of sec'y of treas'y of 12 Aug., 1844, in the Houmas grant.
17th. Copy of letter to J. L. Bradford to Comm'r G. L. O.,
101 of M'ch 26, 1882, applying for evidence in Houmas grant.
18th. Comm'r G. L. O. to J. L. Bradford, of Ap'l 4, 1882, transmitting evidence in Houmas claim.
19th. Comm'r G. L. O. to J. L. Bradford, of Feb'y 25, 1882.
20th. Copy of plat of Wm. Conway, claim of 25 Nov., 1844.
21st. Document containing the following certified copies of—
Solicitor G. L. O. to Comm'r G. L. O., of Sept. 30, 1841.
Comm'r G. L. O. to sec'ry of treasury, Feb'y 14, 1842.
Acting sec'ry of treasury to Comm'r G. L. O., Aug. 2, 1842.
Comm'r G. L. O. to sec'ry of treas'y, Aug. 9, 1842.
" " " att'y gen'l, " 16, "
" " " Wm. R. King, Mc'h 1, 1884.
Patent issued on claim of Donelson & Scott, of Aug. 22, 1844.
Patent issued on claim of Daniel Clark, of Aug. 22, 1884.

Filed April 18, 1882.

22d. Translation of deed of Wm. Conway to Pierre Part, and of Pierre Part to Wm. Conway, of March 27th, 1791.

Filed April 20th, 1882.

23d. Document containing the following certified copies of—
Sec'ry of treas. to Comm'r G. L. O., of Oct. 31, 1840.
Certificate of register at N. O., La., of 12 Jan'ry, 1842,
102 testifying to dates of confirmation of Houmas claim.
Att'y gen'l to sec'ry of treas'y, of 2 Sept., 1842, saying sales in Houmas were void under act of 1811.
Patent cert. on Donaldson & Scott claim, issued by register at N. O., La., Jan'y 30, 1843.
Patent certificate on Daniel Clark claim, issued by register at N. O., La., Jan'y 30, 1843.
Sec'ry of treas. to S. D. King, of 15 Nov., 1843, saying he would not decide Houmas case.

App'l of J. T. Preston, of 23d Sept., 1844, for patent on Wm. Conway.

Appln. of W. C. Johnson, of 19th Oct., 1844, for patent on same.

Register L. O. at N. O., La., to Comm'r G. L. O., of 7 Dec'r, 1844, telling him of the issue of pat. on Wm. Conway.

Pat. cert. issued to register L. O. at N. O., La., Dec'r 7, 1844, on Wm. Conway, O. B. E., dist. of La.

24th. Comm'r G. L. O. to sur. gen'l, La., of May 14, 1878, sending copy of decision, &c., & order.

25th. Comm'r G. L. O. to sur. gen'l, La., of July 8th, 1879, transmitting copy of order, &c.

26th. Copy of decision of Comm'r G. L. O., of June 22d, 1877, on Wm. Conway.

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Filed April 27th, 1882.

27th. Ass't sect'y of treasury to J. L. Bradford, of April 21, 1882.

28th. Document containing the following certified copies of—

Sec'y of treas'y to Comm'r G. L. O., of 31 Oct., 1840.
" " " Samuel D. King, of 15 Nov., 1843.
" " " Comm'r G. L. O., of 12 Aug., 1844.

Filed April 28, 1882.

29th. Sur. gen'l to James L. Bradford of April 27, 1882.

30th. Sworn translation of Spanish deed, from Maurice Conway, of 27th Oct., 1786.

31st. Sur. gen'l for La., to J. L. Bradford, of April 27th, 1882.

Filed May 17th, 1882.

32d. Copy of decisions of old board of commissioners, certified by sur. gen'l for La., May 4, 1882.

33d. Chief clerk dep't of justice, to J. L. Bradford, of May 9, 1882, stating inability to furnish copies of certain official documents.

Very respectfully,

(Signed) J. L. BRADFORD,
Att'y for Pl'ffs & Appellants.

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UNITED STATES OF AMERICA.

Circuit Court of the United States, fifth circuit and eastern district of Louisiana.

CLERK'S OFFICE:

I, Francis A. Woolfley, clerk of the Circuit Court of the United States for the fifth circuit and eastern district of Louisiana, do hereby certify that the foregoing 103 pages contain and form a full, complete, true and perfect transcript of the record and proceedings had, as per agreements and request of solicitors on file, on the trial of the

case of Alfred Slidell et al. *vs.* Thomas J. Emler et als., No. 9828 of the docket of the said court.

Witness my hand and the seal of said court, at the city of New Orleans, this 18th day of July, A. D. 1883.

(Eleven words interlined & six words erased, approved.)

[SEAL.] F. A. WOOLFLEY,
Clerk.

I, Edward C. Billings, United States judge for the eastern district of Louisiana, do certify that Francis A. Woolfley, whose name is signed to the above certificate as clerk of the Circuit Court of the United States for the fifth circuit and eastern district of Louisiana, was at the time of signing said certificate, and is now, the clerk of said court; that said certificate is in due form of law, and that full faith and credit are due to his official attestations as such clerk.

Given under my hand, at the city of New Orleans, in said district, this 18th day of July, A. D. 1883.

(Two words interlined, approved.)

[SEAL.] EDWARD C. BILLINGS,
Judge.

(Endorsement on cover:) E. Louisiana, C. C. U. S.; No. 916; Alfred Slidell, Nicholas H. Rightor, et al., appellants, *vs.* Thomas J. Emler, Milton B. Muncy, Franklin P. Marcy, et al.; filed 6th August, 1883; 104 pages.